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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1139th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 March 1996, at 3 p.m.

Chairman: Mr. FERRERO COSTA

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Thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-15473 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Thirteenth periodic report of the United Kingdom (CERD/C/263/Add.7 and Add.7/Part II; HRI/CORE/1/Add.5/Rev.1)

1. At the invitation of the Chairman, Mr. Head, Mr. Steel, Mr. Wells, Mr. Neale, Ms. Fitzgerald, Mr. S. Wong, Mr. P. Wong, Ms. Chan, Mr. Dean, Ms. Ip and Ms. Doherty (United Kingdom) took places at the Committee table.

2. Mr. HEAD (United Kingdom) said that the thirteenth report had been compiled in consultation with the Commission for Racial Equality (CRE) and took account of issues of current public concern as reflected in the Government's ongoing discussions with non-governmental organizations (NGOs). With regard to article 2 (c) of the Convention, legislative proposals on race relations in Northern Ireland were now being drafted and would be open to comment when they were published later in the year. The annexes to the report provided additional material on certain groups, particularly travelling people. In its response to the recommendations made by the CRE in its second review of the Race Relations Act 1976, the Government had agreed that the CRE should be given the power to accept legally binding undertakings and would be legislating to that end.

3. Referring to article 4 of the Convention, he said that the Government, while agreeing that the views held by extremist or racist organizations were obnoxious and unacceptable and noting the Committee's opinion that all organizations of a racist nature should be banned, had concluded that to ban such organizations outright would merely serve to heighten their political and media profile and contribute to increased membership. Their membership currently remained small, they received little or no publicity and they had no political influence. Appropriate legislation should cover the activities of members, not the existence or membership of the organization. Individual members were not immune from prosecution, as was shown by cases currently before the courts.

4. In connection with article 5 of the Convention, the United Kingdom's long-standing legislation to eliminate racial disadvantage and the considerable resources devoted to promoting equal opportunity reflected the Government's concern to ensure that all sections of society, including ethnic minority communities, had full confidence in the criminal justice system. The Government was working towards a more comprehensive system of ethnic monitoring in that field. The most recent publication under section 95 of the Criminal Justice Act 1991, which required the Home Secretary to publish information on ways of avoiding discrimination in the administration of criminal justice, had drawn attention to the limitations of past studies and highlighted new policies and initiatives. The race sub-group of the Criminal Justice Consultative Council had included 50 recommendations in the report. Police stops and searches were now being monitored, and arrests and cautions would be monitored from April 1996. Steps were also being taken to address the under-representation of ethnic minorities in the criminal justice agencies.

5. With reference to article 5 (b) of the Convention, it was difficult to assess the exact number of racial incidents reported to the police and to compare them with other countries, partly because of the very broad definition of a racial incident used by the police in England and Wales, which meant that most incidents fell at the lower end of the seriousness scale and some might not even be covered by the criminal law. The steady increase in the numbers of racially motivated incidents recorded by the police was due in part to the greater readiness of ethnic minority communities to report such incidents, but also to steps taken by the police service to encourage reporting so as to improve its standing in those communities. New measures to combat racial harassment included legislation to make the publication or distribution of racist material an arrestable offence and to introduce a new offence of intentional harassment. It was too early to assess the effectiveness of the new measures, but their use was being monitored. The reconvened Racial Attacks Group was contributing, through its work programme, to the full and effective use of current legislation.

6. Regarding immigration and asylum, he said that the Asylum and Immigration Bill currently before Parliament was based on the view that fair and effective immigration control was a necessary condition for maintaining good race relations. The proposals were fully compatible with the 1951 Convention relating to the Status of Refugees and the United Kingdom's long tradition of accepting genuine refugees. The Government was increasingly concerned about abuse of asylum procedures, which was unfair to the very small number of genuine refugees. Like many other European countries, the United Kingdom was taking action to ensure that it did not become a target for undeserving applications. The proposed measures could in no way be interpreted as a form of racial discrimination.

7. With regard to article 5 (e) (i), substantial funding for specific employment and urban regeneration projects had been provided since the introduction of the Single Regeneration Budget (SRB) in 1994. Over a third of the new schemes concerned support for ethnic minority communities, and three quarters involved community or voluntary groups. Employers, including the civil service, were being encouraged to follow equal opportunity guidelines and to increase the representation of ethnic minorities in senior positions. The number of police officers from ethnic minority communities was rising slowly but steadily.

8. With regard to the right to housing covered by article 5 (e) (iii), concern about the harassment of ethnic minorities on housing estates had prompted the introduction of a Housing Bill, currently before Parliament, which provided for a power of arrest and other measures to make it easier for local authorities to deal with anti-social behaviour including racial harassment. In connection with article 7 of the Convention, the CRE had increasingly concentrated its efforts on education and promotion and had collaborated with a number of organizations in campaigns aimed at increasing public awareness of race issues.

9. The United Kingdom continued to participate actively in the work of the relevant Council of Europe and European Union bodies concerned with racism and intolerance. In response to some criticism about what was seen as the United Kingdom's refusal to agree to a number of European Union proposals for

joint action on judicial cooperation against racist and xenophobic offences, he said that the United Kingdom's hesitations, which did not amount to a veto, stemmed from its belief in the need to achieve a careful balance between allowing freedom of speech for individuals and making certain kinds of acts subject to criminal sanctions. Discussions were continuing, however, on securing an acceptable solution to the problems of joint action. The United Kingdom had meanwhile been participating actively in work within the European Union to make information on racial violence more readily comparable between Member States.

10. Mr. STEEL (United Kingdom), referring to part II of the report, which dealt with Hong Kong, said that, although only an update had been required, the Government had thought it desirable to submit a full report in view of Hong Kong's special status and circumstances. A further report on the territory would be submitted in conjunction with the fourteenth periodic report.

11. Mr. S. WONG (United Kingdom) said that the major human rights treaties, including the Convention, were accepted and applied in Hong Kong in the context of a policy pursued through legal processes, administrative measures and social programmes. Migrant workers enjoyed the same legal protection as local workers. The continuance in force of the two human rights covenants, after Hong Kong reverted to Chinese sovereignty in July 1997, was expressly guaranteed by the Sino-British Joint Declaration of December 1984 and by the Basic Law of the Hong Kong Special Administrative Region (SAR). The International Covenant on Civil and Political Rights, article 2 of which was of direct relevance to the Convention, had been incorporated in Hong Kong law by the 1991 Bill of Rights Ordinance (BORO). Safeguards guaranteeing implementation of the provisions of the human rights treaties included numerous channels for the redress of complaints, such as a Commissioner for Administrative Complaints and an Independent Police Complaints Council. The handling of human rights cases was facilitated by a number of special initiatives such as the provision of more resources to the judiciary and ease of access to legal aid for persons pursuing claims under the BORO.

12. Updating the information provided in paragraph 12 of the thirteenth periodic report (CERD/C/263/Add.7 (Part II)), he said that by 31 December 1995 all English-language draft legislation had been translated into Chinese. The Bilingual Law Advisory Committee had examined 275 ordinances and 190 had been declared authentic. The aim was to authenticate all remaining legislation by July 1997.

13. With reference to paragraph 18 of the report, the number of amending bills to bring existing legislation into line with the Bill of Rights had risen to 36. They were expected to be enacted during the current legislative session. The provision in the Wills Ordinance that wills written in Chinese by testators of Chinese race were exempt from the rules governing the execution of wills had been repealed so that the rules now applied equally to the execution of all wills, regardless of the race of the testator or the language in which the will had been drafted.

14. With reference to paragraph 20, a Sex Discrimination Ordinance and a Disability Discrimination Ordinance, enacted in 1995, would soon take effect

with the establishment of an Equal Opportunities Commission to monitor and develop guidelines for their implementation. Studies of discrimination on grounds of sexual orientation and family status had recently been completed and a process of public consultations on the need for measures in that regard was under way. A similar study on discrimination on grounds of age was nearing completion, to be followed by public consultations in April or May 1996. A forthcoming study on the question of racial discrimination would identify any problems and determine appropriate measures. Steps would be taken to amend any ordinance found to be discriminatory. Five "Sunday-only" - and one five-day - recreational centres had been set up to serve the needs of foreign domestic help.

15. The Hong Kong Government had provided refuge to over 195,000 Vietnamese; not a single one had been turned away. In accordance with the comprehensive plan of action agreed in 1989 under the auspices of the United Nations High Commissioner for Refugees, those who had been determined to be non-refugees had to return to Viet Nam; Hong Kong had given effect to that principle in June 1988, before the plan of action had been formulated. All those currently in the territory had arrived after that date and had been determined to be non-refugees. Some 48,000 had returned to Viet Nam, 46,000 of them voluntarily.

16. Progress on the objective referred to in paragraph 33 of the report had been satisfactory. In December 1995, for the first time in Hong Kong, the High Court had heard a civil case entirely in Chinese. In February 1996 the restriction on the use of Chinese in the District Court and the Lands Tribunal had been lifted. He was confident that by 1 July 1997 half of all judicial posts would be filled by local candidates.

17. Turning to the Hong Kong Government's policy on recruitment to the civil service, referred to in paragraph 49, he said that since 1993 it had been possible for officers originally recruited on overseas terms to transfer to locally based terms provided that they were permanent Hong Kong residents. In 1995 Government decisions as to the criteria for such transfers had been challenged and the Hign Court had found for the applicant in respect of 5 of the 27 decisions contested. That judgement was currently under appeal. As at 1 January 1996, roughly 99 per cent of all public servants were employed on local terms.

18. Mr. van BOVEN (Country Rapporteur) said that the United Kingdom should be commended for taking into account - while not always agreeing with - the Committee's concluding observations on the previous report. He welcomed the broad public interest in the examination of the report: a considerable number of submissions had been made to members of the Committee by NGOs in the United Kingdom. The report was timely and informative. He welcomed the United Kingdom's frequent reference to its commitment to the elimination of racial discrimination. According to paragraph 4 of the report (CERD/C/263/Add.7), that commitment was expressed in "some of the most stringent and comprehensive anti-discrimination legislation in Europe". He asked to what extent such legislation was systematically monitored and whether the CRE and other competent bodies were properly equipped for that task.

19. With reference to paragraph 8, he asked how the United Kingdom's commitment to close cooperation with other countries on the problem of racism should be interpreted in the light of the fact that the United Kingdom had been the only member of the European Union to oppose a draft for joint action relating to racism and xenophobia in the field of legal cooperation. The representative of the United Kingdom had said that his country's demurral had not amounted to a veto; but the effect had been that the joint action plan had been withdrawn.

20. The dual system separating international law from domestic law in the United Kingdom meant that international treaties were not incorporated in the domestic legal system; consequently, the Convention could not be invoked in Britain by victims of discrimination, nor did the courts have the power to review national legislation against the yardstick of the Convention. Such a system was not in breach of international law, but the legal guarantees for combating racial discrimination were very weak, given the combination of four constitutional and legal factors: no incorporation of the relevant convention in domestic law; no bill of rights providing for equality before the law; no right of petition to an international body; and no special hierarchical status for the relevant major legislative act, namely the Race Relations Act 1976. At a time when human rights had become internationalized, the combined effects of those four factors struck him as being somewhat archaic. He wondered whether the Government could not reconsider the status of the Race Relations Act with a view to making it the effective tool that it was claimed to be. The CRE had noted that the Act was subordinated to a wide range of rules, with which it was in conflict, and had recommended that the basic legislation making discrimination unlawful should take precedence over all earlier or subordinate legislation.

21. He drew attention to several reports relating to the growth of anti-Muslim sentiment, which was closely connected with issues of race and ethnicity in modern Britain, as in other countries. The absence of legislation on religious discrimination was currently of particular concern and offence to the Muslim and certain other communities. The CRE had recommended that a law specifically directed against incitement to religious hatred should be introduced and that a law against religious discrimination should be given further consideration. Other religions or religious denominations - Jews and Sikhs in Great Britain and Catholics and Protestants in Northern Ireland - were specially protected by law, and he wondered whether the Race Relations Act could not be broadened to meet the concerns expressed.

22. He welcomed the United Kingdom's response to the Committee's request following the previous report that it should focus on the implementation of the Committee's recommendations, and hoped that the Government would reconsider its position regarding a number of CRE recommendations it had not thus far accepted, which concerned ethnic monitoring in employment, widening of enforcement proceedings and remedies in industrial tribunals to include group actions, legal aid in race discrimination cases and legislation relating to protection against racial discrimination in Northern Ireland. The latter in particular was a matter of urgency.

23. With regard to paragraphs 30-36 of the report, he felt that the United Kingdom's interpretation of article 4, though consistent with its

earlier positions, was unsatisfactory from the standpoint of the Committee's general recommendation XV. Moreover, the interpretative statement contained in paragraph 30 was redundant in the light of the "due regard" clause and inappropriate because of its subjective formulation - "only if [the United Kingdom] considers ...". As a minimum measure the United Kingdom should amend the statement and use objective terms that left open the possibility of an independent assessment of the margin of appreciation. The interpretative statement concerning article 6 was also redundant in his view. As for treaty reservations entered on behalf of former colonies, he welcomed the United Kingdom's statement that they were no longer applicable, which could be considered to imply their withdrawal.

24. He wondered what measures were being taken to increase the very low percentage of police recruits from ethnic communities. The communities themselves had no confidence in police protection against racist attacks and violence. With regard to the incorporation of the Convention in the domestic legislation of the dependent territories, the reply in part II of the report, relating to Hong Kong, was not fully convincing, given that the provisions of the International Covenant on Civil and Political Rights had become part of Hong Kong law in 1991.

25. He noted from paragraph 118 of the report that the United Kingdom had no plans to change its position on making a declaration under article 14. That was disappointing. Whatever remedies might be available at the national level, those at the international level were limited, inasmuch as the United Kingdom had not ratified the Optional Protocol to the International Covenant on Civil and Political Rights, while the European Convention had no comprehensive anti-racism provision. Moreover, many human rights organizations in Britain and Hong Kong strongly supported the article 14 procedure.

26. The section on Northern Ireland (paras. 15-21 of the report) did not fully respond to the concerns of the Committee or of organizations in Northern Ireland. He wished to repeat the question asked in 1993 concerning specific legislative and other measures to protect Irish travelling people, and he asked the United Kingdom delegation to explain the justification for the policy which limited the free movement of travellers, and to state how their accommodation needs were being met.

27. With regard to immigration and asylum, he noted that the report focused on refugees brought to the United Kingdom under Government-sponsored schemes, but was silent on asylum-seekers and immigration. However, there was a close correlation between the issues of migration and racism. He was concerned about the treatment of illegal immigrants, asylum-seekers and those ordered to be deported, particularly in relation to the length of detention, the use of excessive force and the non-availability of adequate legal representation for asylum-seekers to challenge administrative decisions. Statistics showed that there was much racial bias in immigration controls. He also expressed concern that the rule, and the practice, that those refused asylum were entitled to appeal before removal from the United Kingdom would be changed by legislation before Parliament, which, if enacted, would provide for the summary removal of those concerned. They would be allowed to appeal only after deportation to a country that was allegedly safe. Such a right of appeal was obviously

illusory and ineffective. The new Asylum and Immigration Bill would seriously affect immigrants and asylum-seekers. He asked for detailed information to be provided in the next report.

28. With regard to article 5 (b) of the Convention, he said that there were serious allegations of police brutality resulting in the deaths and injuries of detainees, particularly persons belonging to the black and other ethnic communities. Members of ethnic minorities were also often disproportionately subjected to stop-and-search procedures. Given the need for confidence-building, he asked whether race relations training for the police service was adequate.

29. On the subject of political rights (art. 5 (c)), he asked what measures were being taken to address the under-representation of ethnic minority groups in public office, political life, the police, the prison service, the armed forces and academic life, and whether the United Kingdom was prepared to take special measures as envisaged in article 2 (2) of the Convention. In connection with article 5 (e) (i), he noted that the ethnic minorities suffered disproportionate levels of unemployment. He wondered what the United Kingdom's response to the problem was, and in particular whether it offered incentives to employers to recruit more members of ethnic minorities. The Committee needed more information about the functioning of industrial tribunals which dealt with complaints relating to discrimination in employment.

30. Irish people living in Britain experienced substantial disadvantages. They were reported to have the highest rate of mortality of any ethnic minority in Britain and to be over-represented amongst the homeless and the unemployed. He asked whether there was any policy response to the issue on the part of the Government and suggested that it might be advisable to include them as a specific group in the next census. He also noted that 327 anti-Semitic incidents had been reported in 1994, including the desecration of seven cemeteries. The Government had been criticized for its failure to take action against anti-Semitic literature. A response to that issue would be appreciated.

31. Turning to part II of the report, he wondered why the current report covered only 1 dependent territory, compared with 11 in the twelfth periodic report. He welcomed the incorporation in the domestic law of Hong Kong of the International Covenant on Civil and Political Rights, article 26 of which was reproduced in article 22 of the Hong Kong Bill of Rights. The Human Rights Committee considered the provision to apply to all human rights and he wondered whether the Hong Kong authorities shared and applied that interpretation. That was an important matter because the provisions of the International Covenant on Economic, Social and Cultural Rights were conspicuously absent from the Hong Kong Bill of Rights. Moreover, it appeared that article 22 of the Bill of Rights prohibited racial discrimination only on the part of the Government and the public authorities, not on the part of private individuals or organizations. In that respect it failed to comply with the Convention and he hoped that the Hong Kong Government would enact legislation to remedy that shortcoming.

32. Foreign household workers were in a particularly vulnerable position. The Committee on Economic, Social and Cultural Rights had concluded in December 1994 that the so-called "two-week rule" caused particular problems in so far as a worker could neither seek employment nor stay more than two weeks in Hong Kong once the original term of employment had expired. Employers often breached the terms of foreign workers' contracts, while the expense and length of legal proceedings made it virtually impossible for foreign household workers to take legal action to protect their rights. He asked what action was being taken to redress the situation.

33. There was particular concern at the treatment of Vietnamese asylum-seekers in Hong Kong, their long-term detention and the fact that their children were deprived of many of their fundamental rights, including the right to education because of their status as "illegal immigrants". The level of violence used by the Hong Kong police and correctional service officers during the forced repatriation of Vietnamese asylum-seekers gave further cause for concern, and he invited the delegation to respond.

34. Referring to paragraphs 30 and 31 of document CERD/C/263/Add.7, Part II, he asked why the United Kingdom's interpretation of the effect of paragraphs (a) and (b) of article 4 of the Convention was equally applicable in respect of Hong Kong, even though Hong Kong's constitutional and legal order differed from that of the metropolitan territory. Were the Hong Kong authorities prepared to reconsider the matter and enact special legislation in order to comply with article 4 of the Convention?

35. Hong Kong's South Asian ethnic minorities would effectively become stateless after 30 June 1997 solely on the basis of their racial or ethnic origin. They would not be entitled to Chinese citizenship or to the new Hong Kong passports which would be issued only to Hong Kong citizens of Chinese origin. That raised serious questions in respect of the provisions of article 5 (d) (ii) and (iii). He therefore asked what was being done to solve that problem, and invited the delegation to comment on why the Hong Kong authorities had rejected the idea of establishing an independent human rights commission in Hong Kong in line with general recommendation XVII.

36. He noted with satisfaction that, according to paragraph 62 of the report, the Government of Hong Kong disseminated human rights texts in both Chinese and English, and he asked whether tnat would also apply to the Committee's concluding observations on Hong Kong.

37. As of 1 July 1997, Hong Kong would come under the sovereignty of China although the principle of "one country, two systems" would apply. It was to be hoped that special arrangements would be made between the central Government of China and the Hong Kong administration with regard to reporting under the Convention.

38. Mrs. SADIQ ALI referred to reports that 21 Punjabi women had been secretly fed with radioactively contaminated bread as part of an experiment in Britain in the 1970s. Not being English-speakers, the women had been unable to question why they had been taken to an atomic research centre after eating the bread. The British Government should investigate such questionable actions and pay compensation.

39. She asked what the Government had done to ease the situation in Bradford in the wake of riots, involving mostly Muslim youths, in June 1995. Bradford was an area of high unemployment for young Muslims, and the attitude of the police was perceived as high-handed. That attitude was reflected in a letter written by the head of the Metropolitan Police to black community leaders, blaming young blacks for most of London's street robberies. The study on which he had based his remarks, it had later been admitted, had been carried out in an area with a heavy concentration of black people and was not representative of London as a whole. The question therefore arose whether police officers could be retrained by the Government to help eliminate racial prejudice and bias.

40. Members of the Indian community were the prime target of racist attacks in such areas as Northfields (Leicester), where a public meeting called to address the issue had been told by the local police that no legal action could be taken against many of those responsible for the attacks, who were minors. However, she did not see why the families of such minors could not be approacned, and she asked whether the Home Office was involved in efforts to stamp out racist attacks.

41. With regard to the implementation of article 5 (b) of the Convention, the Committee would welcome information on whether the Government of the United Kingdom was considering ways of providing practical help to Asian women who were victims of domestic violence. Immigration and asylum laws and regulations needed urgent reform. For example, the one-year rule had led to gross violations of civil liberties and human rights. The rule required that a person given initial leave to enter or remain in the United Kingdom on the basis of marriage must remain within the marriage for 12 months before becoming eligible for permanent residence. Women had fallen victim to some of the worst forms of exploitation and abuse as a result of the power wielded by their husbands on the basis of the one-year rule. There had been reports of cases where women had been refused financial help, isolated from their families and kept in ignorance of the few rights they might have. Most of them had been forcibly deprived of their passports and other documents. The one-year rule also contained a clause specifying "no recourse to public funds", which effectively forced spouses into total dependence. She asked what reforms the Government intended to introduce to protect such women.

42. Recent surveys showed that the Chinese community faced many problems in Northern Ireland, not least language difficulties which hindered access to services such as primary care. She asked for information on how equal access to services could be guaranteed to the Chinese community and whether measures would be taken to train more interpreters to help Chinese people communicate.

43. Finally, she asked whether the Government of the United Kingdom would consider introducing legislation to extend the law on blasphemy to cover Islam, Hinduism and Buddhism, in addition to the Christian religion, and she requested information on the work of inter-faith societies and inter-religious museums for schoolchildren.

44. Mr. CHIGOVERA noted that article 4 (b) of the Convention prohibited both the activity and membership of organizations that incited racial discrimination, whereas legislation in the United Kingdom prohibited only the activity of such organizations. The United Kingdom should therefore consider introducing legislation that fully complied with the Convention.

45. He asked how the Government was monitoring the Equal Opportunities Ten Point Plan for Employers and the impact of the Single Regeneration Budget on black and ethnic communities. A London-based NGO had alleged that the Race Relations Act 1976 did not constitute a general prohibition of discrimination on the grounds of race in Great Britain and that it did not apply to many central government services to the public. He invited the delegation to comment. The Scottish Council for Civil Liberties claimed that the Government was taking fewer and slower steps to deal with racial discrimination in Scotland than in England and Wales. He asked whether that was true and, if so, what could be done to rectify the situation.

46. He invited the delegation to comment on allegations by some NGOs about the racial implications of certain schooling arrangements under the Education Reform Act, and on differential treatment by immigration officials aimed at reducing the proportion of African and Caribbean entries - in particular, an incident involving the arrival of a charter flight from Jamaica on 21 December 1993, in which the passengers had been detained and 27 of them sent back. A further allegation calling for comment was that United Kingdom citizenship, or the right to enter the United Kingdom after 1 July 1997, had been denied to certain Hong Kong residents.

47. He asked what the Government's position was on discrimination in the police force, and whether it consulted black police officers' representatives in that regard.

48. Mr. de GOUTTES said that the United Kingdom's periodic reports were remarkable for the evidence of exemplary efforts to tackle racial discrimination and the abundance of documentation and sources, including NGOs and other bodies. At the same time, the Government disagreed with some of the Committee's earlier findings; as a result, the report had certain negative aspects. First, the United Kingdom did not intend to reconsider the reservations it had expressed with regard to articles 4 and 6 of the Convention, despite the Committee's concluding observations on the twelfth periodic report. Secondly, the Government was not prepared to adopt specific legislation, pursuant to article 4, to prevent incitement to racial violence, on the grounds that existing legislation was adequate. That stance was the more regrettable since the Convention could not be invoked in a court of law. It was hard to reconcile the statement, in paragraph 43 of the report, that it was not felt "right in principle" to introduce a separate class of violent crime of racial motivation with the reference in the following paragraph, to severe sentences based precisely on such motivation.

49. Thirdly, the Committee did not share the view, expressed in paragraph 36, that a ban on groups like the British National Party would run counter to the object and purpose of the Convention. Fourthly, the Committee could not accept the contention, in paragraph 118 of the report, that, in the light of existing domestic and international law, the United Kingdom need not make a

declaration under article 14 to permit individual communications. Some European States parties accepted such communications not only under the Convention but also under the European Convention on Human Rights. Fifthly, the Committee could not agree with the decision not to incorporate the Convention in the domestic legislation of Hong Kong and other dependent territories, or accept that the domestic legislation was adequate.

50. With regard to article 2 of the Convention, he requested up-to-date information on the "Urban Challenge" initiative for training facilities in areas with a high proportion of immigrants. Regarding article 4, he asked what progress had been made on legislation relating to Northern Ireland, and whether the CRE would have a part to play. Referring to article 5, he would welcome an analysis of social indicators, of the kind the Committee usually took into account as a measure of racial discrimination, especially with regard to the black population and immigrants. On the subject of article 6, he regretted the lack of statistics regarding court cases, sentences and compensation arising from racist acts. He wondered whether the CRE had a hand in drafting the periodic reports. Concerning article 7, it would be interesting to know what steps the Government planned to take in order to disseminate the current report and the Committee's conclusions throughout the United Kingdom and Hong Kong.

51. Paragraphs 59 and 60 of the report gave an indication of the Government's efforts to promote the training of judges and lawyers in intercultural problems; he stressed that such training was also necessary for police and prison officers, and he would welcome further comments, as well as an initial progress report on the Judicial Studies Board.

52. Mr. RECHETOV said that, although the United Kingdom's report served the purpose of candid dialogue with the Committee, it also showed signs of an increasingly divergent approach to problems, especially in the matter of legislation. While he did not dispute the importance of the hallowed principle of freedom of expression, he felt that the United Kingdom's approach was questionable, even when measured by practical results. He shared the previous speaker's concern about the failure to ban organizations such as the British National Party. While he could agree, in general, that the States parties themselves, not the Committee, were the main interpreters of the Convention, he felt that efforts must be made to resolve the contradictions that had been brought to light.

53. With regard to Hong Kong, he inferred from paragraph 42 of Part II of the report that the matter of citizenship was being dealt with somewhat arbitrarily, based on criteria that fell far short of international norms; experience in eastern Europe had shown what harm could result from such an approach. It was in any case essential that the situation in Hong Kong should remain subject to international scrutiny after 1 July 1997.

The meeting rose at 6 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1140th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 March 1996, at 10 a.m.

Chairman: Mr. FERRERO COSTA

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (continued)

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-15481 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/263/Add.7 and CERD/C/263/Add.7 (Part II)) (continued)

1. At the invitation of the Chairman, the members of the delegation of the United Kingdom of Great Britain and Northern Ireland took their places at the Committee table.

2. Mr. VALENCIA RODRIGUEZ welcomed the progress made in the United Kingdom in respect of racial tolerance, but considered that efforts should continue to protect the victims of acts of racial discrimination and punish the persons who committed such acts. The Commission for Racial Equality still had much to do in that regard. On the basis of its recommendation, the Government had taken or was preparing to take certain measures which were described in paragraph 26 of the report. While that step was to be welcomed, some points required clarification. He asked whether the "legally binding undertakings" which were to provide a simple way of resolving disputes would be the result of mediation by the Commission and of what procedure such undertakings would be the conclusion. Paragraph 26 (b) did not state whether the industrial tribunals could, at their own discretion, set the amount of compensation awarded in cases of racial discrimination; paragraph 26 (c) did not specify what type of race cases required members of industrial tribunals to have expertise; and paragraph 26 (d) did not state who would be responsible for the "voluntary ethnic monitoring" which could be carried out. He would also like further details on the basic aspects of programmes to help refugees integrate into British society, as referred to in paragraph 27.

3. Turning to the section of the report dealing with the implementation of article 4 of the Convention, he noted with satisfaction that British criminal law provided for the punishment of racial offences and incitement to racial hatred. He was nevertheless of the opinion that the United Kingdom Government should try to apply more stringently the Committee's general recommendation XV (42), naturally taking into account the country's legal, political and social situation. It should be emphasized that the goal of article 4 was to prevent the dissemination of ideas based on racial superiority or hatred, but in no sense to prevent exchanges of views in substantive discussions. By refraining from taking steps to ban individuals or organizations which upheld extreme or racist views, as paragraph 33 of the report admitted, the United Kingdom was failing to comply with its obligation under article 4 (b) of the Convention.

4. With reference to the implementation of article 5, he asked why non-governmental organizations (NGOs) were supplying information which invalidated the content of paragraph 37. He would also like more detailed information on the protective measures mentioned in paragraph 38, their effectiveness and the investigation concerning the two persons of Palestinian origin imprisoned following the July 1994 bombings. The police response to racially motivated incidents to which paragraph 48 referred was not described in sufficient detail. According to certain persons belonging to minorities,

police officers allegedly did not always intervene with the necessary application and even showed signs of racism. He asked whether those officers received the practical and theoretical training needed to deal with such incidents. However, the Committee had every reason to welcome the information provided in paragraph 50 that each of the different police forces reported annually on the racial incidents which had required police action and on collaboration between the various forces.

5. He also wished to know whether the information supplied to courts by the Ethnic Minorities Advisory Committee (EMAC) (paras. 59 and 60 of the report) also concerned the Convention. If not, the gap should be filled.

6. Where political rights were concerned, the report indicated that very few members of Parliament came from ethnic minority groups and that the rate of abstentionism was very high among those groups. It would be interesting to know the reasons for their lack of motivation and what could be done to remedy it.

7. Mr. LECHUGA HEVIA, referring to the implementation of article 4, said that he did not share the opinion of the United Kingdom Government expressed in paragraph 36 of the report. The Government refused to ban the British National Party on the grounds that it would lead to greater publicity for that party, which was constantly gaining in importance and had even achieved promising results in the recent by-elections. At the same time, the number of neo-fascist groups and aggressions was constantly increasing. The full implementation of article 4 would help to combat the spread of racism more effectively.

8. The poor living conditions of some ethnic minorities were borne out by statistics. Unemployment, for example, was twice as high among the members of those minorities as among the population at large; the minority Irish-born community was less well housed than the population of the United Kingdom in general, and, in Northern Ireland, the "travellers" were in poorer health than the rest of the population.

9. With regard to law enforcement, reports indicated that there were many deaths among persons held in police stations or prisons. The Human Rights Committee had denounced the long periods of detention without charge and without a lawyer's assistance, searches without a warrant and the unacceptable conditions in prisons in Northern Ireland that led many prisoners to commit suicide.

10. Mr. GARVALOV noted with satisfaction that, in the Council of Europe, the United Kingdom was a very active member of the European Committee on Migration. In that regard, he asked whether the United Kingdom had signed the European Framework Convention for the Protection of National Minorities. He would also like the United Kingdom delegation to explain what it meant by "national minority" since a variety of terms was used to refer to it in the report.

11. He asked whether the Government had a timetable for giving effect to the intentions expressed in paragraph 16 of the report.

12. Referring to the implementation of article 4 and to the last sentence of paragraph 33, he said that, even if the Government had no power to ban individuals or organizations which held extreme or racist views, the law did have that power. He hoped that the United Kingdom would without delay adopt legislation in that regard. He had also noted that the United Kingdom's position on the interpretation of article 4 had already changed and he had high expectations for future cooperation between the Committee and the United Kingdom Government on that article.

13. He was concerned about the statements made in paragraphs 42, 46, 48 and 52 of the report. Contrary to what was stated and repeated in those paragraphs, the introduction of a specific offence of racial violence could, in his opinion, have a lasting effect and bring United Kingdom legislation more into line with the requirements of the Convention.

14. Lastly, with reference to the complaints brought before the industrial tribunals mentioned in paragraph 108, he wished to know whether, in the event of disagreement with the decision taken, a private individual could request such a tribunal to make a ruling on his case.

15. Mr. DIACONU, endorsing the comments made by Mr. de Gouttes and Mr. Chigovera, noted that certain texts had their limits. For example, the 1976 Race Relations Act covered only England and Wales and the Chinese and Indian communities, as well as the Northern Irish travellers, therefore did not benefit from its provisions. The Committee would like to know when the bill that had been drafted to fill that gap would be considered by Parliament and adopted. Some provisions of the 1991 Criminal Justice Act which made the publication and distribution of material inciting to racial hatred a crime did not cover Scotland, although the situation there was serious. He asked whether the United Kingdom delegation could say when the law would apply to all parts of the United Kingdom.

16. The report did not mention the measures taken to allow ethnic groups to preserve their cultural and linguistic identity and did not refer to the situation of the Irish travellers, their degree of integration and measures that could be taken to protect them against discrimination.

17. With regard to the implementation of article 4, he shared Mr. van Boven's opinion that there was no contradiction between freedom of expression and the prohibition on incitement to racial hatred and propaganda for war. He also shared the view of his colleagues who did not consider that the British National Party could gain publicity from being banned. Allowing it to exist also meant allowing it to promote its extremist and destructive ideas.

18. A question arose with regard to the role played by the Commission for Racial Equality in the preparation of the report. As far as the 1976 Race Relations Act was concerned, he thought that the time had come to update it, since racial problems had only worsened.

19. Mrs. ZOU said she was surprised that the part of the report on the dependent territories dealt only with the situation in Hong Kong. She hoped that the next report would take account of the implementation of legislation intended to combat racial discrimination in all the dependent territories.

20. There were problems of discrimination in Hong Kong. Although 95 per cent of the population was composed of ethnic Chinese, all the laws had been drafted in English and, with the exception of the lower courts, the courts used English, thus placing the ordinary Chinese population at a disadvantage. When China had regained sovereignty over Hong Kong, laws and legislation would be drafted both in English and in Chinese. It was to be hoped that, between now and then, the United Kingdom would try to attach more importance to Chinese.

21. She noted that the United Kingdom refused to grant British nationality to the 3,000 to 4,000 Asians, mainly Indians and Pakistanis, who lived in Hong Kong, thus making it impossible for those who wished to leave Hong Kong and settle in the United Kingdom to do so. It also seemed that the inhabitants of the Falklands and Gibraltar, who were white, had obtained British nationality. If that was true, was that not discrimination against those South Asians?

22. According to an NGO, the 8,000 Chinese who lived in Northern Ireland received no financial assistance from the Government, unlike other categories of the population. Perhaps the United Kingdom delegation could provide further details.

23. Mr. YUTZIS, referring to the implementation of articles 2, 3 and 6 of the Convention, said he had information that the Chief Justice of England had allegedly stated in June 1995 that, in criminal cases, some judges made racist remarks. An inquiry had also revealed that only 1 black person in 12 trusted in the system of justice. However, paragraph 7 of the United Kingdom report stated that "Research suggests that the majority of the population supports race relations policies and shows that racial prejudice is diminishing among the white population generally". It would be interesting to know what persons had been questioned in connection with that research.

24. According to other information, the British police force allegedly had only 31 sergeants and 1 senior officer belonging to ethnic minorities. In addition, the great majority of blacks recruited into the police apparently resigned because of the discrimination to which they were subjected and the attitude of the police towards the ethnic minorities.

25. Moreover, 16 per cent of detainees allegedly belonged to ethnic minorities, which accounted for only 5 per cent of the total population, while the number of deaths in custody had apparently risen from 27 in 1993 to 48 in 1994. At least one third of those who died seemed to have been blacks or members of other ethnic minorities. He would like to know what disciplinary procedures within the police force made it possible to punish officers guilty of inflicting ill-treatment. In that connection, he recalled that, in June 1995, the Human Rights Committee had expressed concern about the large number of persons imprisoned and the cases of excessive use of force against members of minority groups.

26. In view of the alarming increase in racism among individuals and in institutions, the Committee once again urged the United Kingdom Government to withdraw or at least amend the reservations it had formulated to article 4 of the Convention.

27. With regard to Hong Kong, he asked whether it was true that there was no specific law prohibiting acts of racial discrimination by private persons and drew the attention of the United Kingdom delegation to the fate of the Vietnamese asylum-seekers.

28. Mr. SHERIFIS thanked the United Kingdom delegation for the high quality of the information supplied to the Committee and for its spirit of cooperation. He, too, would like the United Kingdom to withdraw the reservations it had formulated to article 4 and to make the declaration provided for in article 14, as many European countries had done.

29. He welcomed the measures taken by the Government to come to the assistance of refugees and eliminate barriers between races (paras. 27 and 28 of the report) and would like to know what initiatives the Government had taken to encourage the members of ethnic minorities who had not already done so to put their names on the electoral register (paras. 63 and 64 of the report).

30. It would also be interesting to know what steps the Government was taking to implement the Committee's recommendation on article 7 of the Convention and to inform a wide range of the public, particularly the ethnic minorities, about the content of the Convention and its objectives.

31. The CHAIRMAN, speaking as a member of the Committee, thanked the United Kingdom delegation for its constructive attitude, its sincerity and the very detailed information it had supplied to the Committee. He nevertheless regretted that the United Kingdom had not followed up some recommendations made by the Committee during its consideration of the preceding report. For example, the United Kingdom still had not extended the coverage of the Race Relations Act to Northern Ireland and had not yet fully implemented the provisions of article 4 of the Convention. It was to be hoped that it would fulfil those legal obligations in the near future. The United Kingdom had also not incorporated the Convention into the laws of the dependent territories, Hong Kong, in particular.

32. In view of the vital role which the United Kingdom had historically played in defending human rights, it should make the declaration provided for in article 14.

33. Mr. WELLS (United Kingdom), replying to the Committee's questions concerning the police, said that, as at 30 September 1995, there had been 2,223 police officers belonging to ethnic minorities in England and Wales, or 1.8 per cent of the total staff, compared with 0.5 per cent at the end of 1983. During the past five years, there had been a regular increase in the number of police officers belonging to minorities as a result of an effective information campaign. In 1994, 4.2 per cent of the police officers recruited had belonged to ethnic minorities. The results of an equal opportunities survey in the police force had recently been published and would serve as markers for assessing the progress to be made in that area.

34. With the support of the Association of Chief Police Officers, the Commission for Racial Equality had also just published a check-list to prevent any form of racial discrimination, particularly with regard to detention.

35. It would also be recalled that the Black Police Association, whose members served in London's Metropolitan Police, had been established in September 1994. The first chairman was an Afro-Caribbean officer who had just been promoted to the post of liaison officer to the Specialist Support Unit for race and community relations training.

36. Each death in police custody was reported to the Inspectorate of Constabulary and was thoroughly investigated. Allegations of brutality were also investigated if a complaint was made. The United Kingdom Government had no statistics on the ethnic origin of persons who died in custody, but would be collecting those data as from 1 April 1996. It had issued detailed guidelines for the police on the collection, analysis and use of such information.

37. The total number of racist incidents in England and Wales had been 11,000 in 1993/1994 and the number of cases reported to the police had increased. Such incidents were investigated and inspections were carried out by the Inspectorate of Constabulary in order to monitor existing relations between the police and the various communities and improve police training in race relations. The results of those inspections would appear in the fourteenth periodic report of the United Kingdom. He informed the Committee that an inquiry was in progress in connection with the racist incidents which had taken place in Bradford. Racist incidents such as those in Leicester lent themselves to concerted multi-agency action. In conclusion, he said that the majority of incidents were not serious and that the police remained alert to the activities of extremist organizations.

38. Mr. STEEL (United Kingdom), referring to the criticism levelled by all members of the Committee and, in particular, by Mr. van Boven, against the statements by the United Kingdom Government concerning its interpretation of articles 4 and 6 of the Convention, said that there was an enormous difference between the United Kingdom's interpretation of the obligations deriving from those two articles and the over-restrictive interpretation given by the members of the Committee. The Government of the United Kingdom could therefore only maintain its position, as set out in paragraph 36 of the report, that "to ban extremist organizations or to attempt to curtail their activities, on the grounds of their political principles would not be seen as in keeping with the long traditions of freedom of speech enjoyed in the United Kingdom and would, almost certainly, be counter-productive". Interpretative statements obviously also applied to the dependent territory of Hong Kong and, as matters stood, the Government of Hong Kong considered it neither necessary nor desirable to adopt legislation whose express purpose was to outlaw the activities and organizations referred to in article 4.

39. Mr. HEAD (United Kingdom), replying to the questions asked by Mr. van Boven, said that the Commission for Racial Equality was legally required to submit proposals to the Home Office for the review of the 1976 Race Relations Act. The Commission had enough resources to carry out its monitoring work and ensure the implementation of anti-discrimination legislation. Its tasks varied according to the areas of activity in question and considerable progress had already been achieved.

40. With regard to the specific position of the United Kingdom on the project for joint action against racism and racial discrimination within the European Union, he said that the concerns expressed by the members of the Committee were the result of a misunderstanding. The United Kingdom had never opposed the project, but had merely entered reservations, particularly on the way in which it was to be implemented.

41. Referring to the status of the Race Relations Act in relation to other statutes, he recalled that it was an act of general application and that, in English law, specific statutory provisions took precedence over acts of general application. He could not undertake to reconsider his Government's response in that area.

42. As to the issue of discrimination based on religion, he said that, at present, the United Kingdom Government did not think that the situation was serious enough to warrant the drafting of special legislation, but was prepared to consider any proposals in that regard.

43. With reference to the proposals of the Commission on Racial Equality on the review of the 1976 Race Relations Act, he said that the United Kingdom Government's position could be found in annex 6 to the report. He drew the attention of the members of the Committee to his reply to the proposals contained in recommendation No. 9 on compulsory ethnic monitoring in the field of employment, recommendation No. 16 on legal aid to cover racial discrimination cases and recommendation No. 19 on possibilities of group remedies against racial discrimination in the industrial tribunals. He also noted that legislation on protection against racial discrimination in Northern Ireland was to be adopted by the end of the year.

44. Referring to the interpretative statement on article 4 of the Convention, he said that the United Kingdom Government understood the concerns expressed by the members of the Committee, but, after considering the matter in depth, was of the opinion that its position was not contrary to the provisions of the Convention and that, as matters stood in the United Kingdom, the withdrawal of the statement would be counter-productive.

45. The situation of the of Northern Irish "travellers" (240 families, with some 1,400 persons) was described in detail in annex 4 of the report. An act adopted in 1995 empowered the Northern Ireland Department of the Environment to take the necessary measures to designate places where travelling people could park their caravans.

46. With regard to the representation of ethnic minorities in public office, he said that the United Kingdom Government encouraged the recruitment of members of ethnic minorities in all sectors of public life and referred the members of the Committee to annex 18 of the report. A detailed reply to the question on how the industrial tribunals worked would be submitted to the Committee in writing.

47. Referring to the disadvantages of the Irish community in the United Kingdom, he said that the only data available came from the 1991 census on places of birth. Those data had enabled the situation of persons born in Ireland but living in the United Kingdom to be studied to some extent, but

they were not typical enough of the entire population of Irish origin and therefore did not suffice to confirm Mr. van Boven's analysis. Persons of Irish origin living in underprivileged areas benefited from the same measures as the other inhabitants of such areas.

48. As to the distribution of anti-Semitic literature, the Home Office had no information on the incidents mentioned other than that supplied by the Board of Deputies of British Jews, whose figures corresponded by and large to those given by Mr. van Boven. In any case, the police and the judicial authorities took the incidents very seriously. The victims of anti-semitism enjoyed the same protection as the victims of other acts of racial violence or incitement to racial hatred.

49. With regard to the incidents reported in the press and mentioned by Mrs. Sadiq Ali, particularly those relating to reported experiments on Indian women, his delegation considered that more detailed investigation was necessary and it would communicate any information it could collect in that regard to the secretariat of the Committee.

50. Mr. Chigovera had asked about measures taken to ensure that minorities would benefit sufficiently from the aid granted by the Government in the context of its regeneration programme. A regional monitoring process regularly examined the programme to ensure that it contributed to the development objective which had been set, taking into account the various categories of recipients; ethnic minorities should benefit substantially from the funds made available.

51. The fact that exclusions from school concerned a relatively high proportion of children of African and Caribbean origin did not necessarily mean that racial discrimination existed. Exclusion decisions were taken locally and the possibility of appeal existed. The Education Department had sent guidelines to all head teachers in order to ensure the objective and non-discriminatory application of disciplinary sanctions. As from January 1996, schools were required to furnish data on permanent exclusions and, in particular, on ethnic origins and educational inspectors were supposed to attach particular importance to that issue.

52. In order to ensure the dissemination of its periodic report, the United Kingdom usually placed a copy in the parliamentary library, sent several copies to the Commission for Racial Equality and distributed copies free of charge to anyone who asked for them. As to the Committee's conclusions, the Government would decide how best to ensure that they were disseminated in the United Kingdom context. Information would be provided in the next report on the measures to be taken to publicize the content of the Convention and the work of the Committee.

53. With regard to British social attitudes, long-term trends showed that young people were increasingly tolerant in their opinions. He recalled that information campaigns to encourage members of minorities to put their names on electoral registers were organized annually for under-represented groups. Minorities had long been represented at the local authority level. Nationally, it was to be noted that the turnover of members of Parliament was very slow and hindered the progress of minorities in that respect.

54. Mr. NEALE (United Kingdom) said that the United Kingdom Government naturally recognized the correlation between immigration and racist issues and believed that effective monitoring of immigration was necessary to ensure good race relations. British provisions relating to immigration and the right of asylum were in full conformity with the United Kingdom's international obligations. With regard to the question of detention, he noted that more than 60,000 applications for asylum awaited processing and 3,000 new applications arrived every month. Since July 1995, 650 persons seeking asylum had been detained. The United Kingdom Government used detention only as a last resort and wanted to be able to continue to detain persons who had taken advantage of the system. Only illegal immigrants who represented a danger to the safety of others were physically restrained when under escort. A relatively small number of persons were concerned and measures were taken to ensure that officers never used excessive force.

55. The United Kingdom Government rejected the assertion that asylum-seekers did not have access to adequate mechanisms effectively to challenge administrative decisions. All asylum-seekers could take advantage of free legal representation and judges could decide to postpone a hearing if the appellant had been unable to obtain the necessary representation.

56. The Government also totally refuted the comments by the Joint Council for the Welfare of Immigrants that the monitoring of immigration to the United Kingdom was conducted in a discriminatory manner. According to the second paragraph of the Immigration Rules, all immigration officers were required to perform their work without taking account of the race, colour or religion of persons who applied to enter or reside in the United Kingdom. The Rules were intended to ensure, firmly but fairly, that persons with a genuine claim to be admitted and to reside in the United Kingdom could do so and that the rest were prevented from being admitted. With reference to the Christmas 1993 charter flight from Jamaica, there was no evidence of any desire to discriminate against Caribbean nationals. The case of each passenger on that flight had been considered individually and in accordance with the Immigration Rules.

57. The United Kingdom Government also did not believe that the immigration and right of asylum bill currently before Parliament would have the effect described on the situation of immigrants and asylum-seekers or at least those who were within their rights. The bill was compatible with the 1951 Convention relating to the Status of Refugees.

58. In reply to a question from Mr. van Boven, he said that the suspensive effect of appeals against decisions to reject an application for asylum would initially be suppressed only in cases of expulsion to other European Union countries. Subsequently, the new provision would also apply in cases of expulsion to other countries such as Switzerland, the United States and Canada. Currently, 95 per cent of all expulsions to a third country involved persons who had passed through other European Union countries. It was a universally accepted principle that refugees must seek asylum in the first safe country reached. It should be noted that France, Germany, Sweden and Switzerland had also adopted similar provisions.

59. The primary purpose rule referred to by Mrs. Sadiq Ali was, according to the Government, an essential safeguard to prevent certain persons from making use of marriage to settle in the United Kingdom. There were no plans to amend it. The problem of domestic violence was a matter of concern and the victims of such violence were encouraged to contact the police. Cases in which violence led to the dissolution of the marriage were given a sympathetic hearing, but violence within the family could not automatically eliminate the requirements of the Immigration Rules.

60. Mr. STEEL (United Kingdom), replying to Mr. van Boven and Mrs. Zou, who had expressed surprise that no report had been submitted on the 10 other United Kingdom dependent territories in addition to Hong Kong, said that the preparation of such reports give rise to problems for the smallest of those territories, but he hoped that they could be submitted to the Committee without much more delay. In the case of Hong Kong and the question of what would happen to persons belonging to ethnic minorities from south-east Asia after 1 July 1997, he said that it was not correct that they would become stateless. Apart from the fact that they could legally and in practice obtain Chinese nationality, although they were unlikely to apply for it, if they did not register as British nationals overseas before July, in accordance with the 1990 Hong Kong Act, they would automatically become British overseas citizens. No one would therefore be stateless. The United Kingdom had complied scrupulously with its obligations under the Convention on the Reduction of Statelessness.

61. It was equally incorrect to say that that type of nationality was meaningless without the right of abode in the United Kingdom. British nationals overseas and British overseas citizens would have the right to apply for a British travel document and could obtain British nationality after five years' residence in the United Kingdom. Furthermore, as Commonwealth citizens, they would have the right to make temporary visits to the United Kingdom without a visa. The British Prime Minister had given renewed assurances in that regard just the previous day in Hong Kong. What was of great importance to such persons was the right to reside in Hong Kong. The provisions of the Joint Declaration were explicit on the subject: persons who had the right to reside in Hong Kong prior to 1 July 1997 would keep it after that date.

The meeting rose at 1 p.m.

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Forty-eighth session

SUMMARY RECORD OF THE 1141st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 March 1996, at 3 p.m.

Chairman: Mr. FERRERO COSTA
(Vice-Chairman)

later: Mr. BANTON
(Chairman)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/263/Add.7 (Part II)) (continued)

1. At the invitation of the Chairman, Mr. Head, Mr. Steel, Mr. Wells, Mr. Neale, Ms. Fitzgerald, Mr. S. Wong, Mr. P. Wong, Ms. Chan, Mr. Dean, Ms. Ip, and Ms. Doherty (United Kingdom) took places at the Committee table.

2. Mr. STEEL (United Kingdom) said that the report to be submitted by his country in August 1996 would relate only to Hong Kong, in view of its special circumstances; the report for the United Kingdom would appear in two years' time. As for the submission of reports after 1 July 1997, he was not in a position to say what would or should happen. The responsibility would have passed to the People's Republic of China, which was a signatory to the Convention and was aware of its reporting obligations.

3. Mr. S. WONG (United Kingdom), replying to questions put the previous day, said that Hong Kong shared the Human Rights Committee's interpretation of article 22 of the Hong Kong Bill of Rights. However, rights enshrined in international instruments other than the Covenant on Civil and Political Rights were not necessarily justiciable. With regard to the prohibition of racial discrimination by private individuals or organizations, he referred the Committee to paragraph 30 of the Hong Kong report. Existing legislation already made adequate provision for cases of incitement to racial hatred by individuals or groups. A study of racial discrimination was, however, due to be initiated later in the year to assess what problems were not adequately covered by current legislation and what measures might be appropriate. Racial discrimination on the part of individuals would be considered in that context.

4. With regard to Vietnamese migrants, he said that the supplementary information provided by his delegation showed that living in detention was not a pleasant experience. The migrants were, however, provided with all necessaries and Hong Kong had no plans to reduce the services it provided. Preschool and primary education was provided by the United Nations High Commissioner for Refugees. Secondary education had been withdrawn, since it had been determined, after screening, that all the migrants should return to Viet Nam; in any case, secondary education was not provided in similar circumstances in other parts of the world. Hong Kong had no wish to detain the Vietnamese at all; their future was in their own hands. Moreover, between August and December 1994, and again from April 1996, the United Kingdom had given and would give $150 to each migrant voluntarily returning to Viet Nam. While they were in detention their life was made as pleasant as possible. He deplored any violence that had taken place; it had become necessary for the authorities to use force when migrants refused to accept the inevitable and employed violent tactics that affected other inmates. Tear-gas was used as a last resort.

5. With regard to the suggestion that an independent human rights commission should be set up, he said that Hong Kong was committed to the protection of

human rights, but such a commission was not the best way forward in Hong Kong's particular circumstances. It was well served by its Bill of Rights, an independent judiciary, legal aid, an ombudsman, an elected legislature, an active advisory committee on civic education, a free press and monitoring by both local and international non-governmental organizations (NGOs). It was more sensible to build on that basis than to establish a new body with an unspecified mandate. Moreover, more improvements were already in hand: the judiciary would be given additional resources in order to reduce the delays in bringing cases to court; and an equal opportunities commission to deal with discrimination on the grounds of sex or disability and a privacy commission to deal with the misuse of data were being established.

6. All laws would be drafted in two languages by 30 June 1997. Hong Kong was committed to the wider use of the Chinese language both in the courts and in the civil service; the use of written and spoken Mandarin was encouraged. A strategy was in place to ensure that by July 1997 all court documents would be available in Chinese. Members of a jury currently had to meet a certain standard of English, but that was now being reconsidered; a lower standard might be acceptable. However, English should be retained in order not to jeopardize Hong Kong's considerable financial standing.

7. Ms. CHAN (United Kingdom) said that the two-week rule for foreign domestic workers, to which Mr. van Boven had referred, applied to all foreign workers; it did not discriminate on the basis of race, colour or national origin. The rule applied only to the premature termination of a contract due to the financial insolvency of the employer or maltreatment. In normal circumstances a domestic worker could enter into a new contract, with no restrictions, when the old contract expired. Such workers usually returned home on holiday before coming back to take up their new employment. The purpose of the two-week rule was to curb the previously prevalent practice of "job-hopping", whereby workers would deliberately terminate their contracts in order to be able to stay on indefinitely. Foreign workers were treated equally with the other people of Hong Kong; they received statutory holidays, insurance and all other rights. They were entitled to appeal to labour tribunals and to receive legal aid for petitions against insolvent employers.

8. Mr. DEAN (United Kingdom) said that Hong Kong would indeed be publicizing the Committee's recommendations; it took its responsibilities in that regard very seriously. A report of the previous day's proceedings had already been relayed to the Hong Kong press and a colleague had been interviewed on the radio. Hong Kong systematically disseminated the various human rights treaties, generally through schools. Children were encouraged through competitions and exhibitions to appreciate the relevance of human rights to their everyday lives. NGO materials were also used for that purpose.

9. Mr. YUTZIS said that, while he was impressed by the additional information provided, he had been struck by the frequency with which members of the delegation had made reassuring statements about the incidence of racial and religious discrimination and racial tension. Their assertions contrasted with negative reports from media, NGO and other sources. The Committee would have to reach its own conclusions, particularly since there was a long-standing divergence of views between the Committee and the State party on the interpretation of article 4. Many members of ethnic minorities felt that

acts of racial harassment were not adequately presented by the competent authorities. The Human Rights Committee had in July 1995 expressed conc the low level of support afforded to ethnic minorities, which was reflec the recruitment figures of the police and other services.

10. Mr. VALENCIA RODRIGUEZ invited the United Kingdom to provide additi information, in its next report, on the application of article 6 of the Convention and on three aspects of immigration that had not been covered depth, namely the so-called "white list" which referred to certain count and was presumably drawn up by the Home Secretary; the fact that employe were often called on to act like immigration officers in granting or ref employment; and the situation regarding the withdrawal of benefits to asylum-seekers.

11. Furthermore, the Committee would welcome information on discriminat against the Irish population. He wondered whether the Government intend act on the recommendation by the Commission for Racial Equality that Iri persons should be treated as a specific group in population censuses.

12. Mr. RECHETOV said that the transfer of Hong Kong to Chinese soverei should be monitored by the international community. However, the United Kingdom proposal to present a report solely on Hong Kong raised procedural questions. The United Kingdom report gave little information overseas territories other than Hong Kong, and that deficiency should be remedied in the next report.

13. Mr. van BOVEN (Country Rapporteur) thanked the delegation for its r and its frank and detailed replies to the Committee's questions. Several areas of concern remained, however. The first was the question of deaths custody, which were the subject of inadequate intramural investigation by police, rather than by an independent body. With regard to immigration a asylum also, the replies had been unsatisfactory, suggesting that the delegation had underestimated the depth of the Committee's concerns. Notwithstanding official declarations to the contrary, Government policy the matter was not free of racial bias. In other areas it was clear that there were issues on which the Committee and the United Kingdom did not a particularly with regard to the interpretation and implementation of arti of the Convention. That would be reflected in the Committee's concluding observations.

14. A commitment to combating racial discrimination required a comprehe approach - not just legal measures - including the allocation of sufficie financial resources. Organizations providing legal and social assistance victims of racial discrimination were doing valuable work but were poorly funded. The Government's offer to provide a report on the situation in Hong Kong was welcome, although the procedural issues that raised should considered.

15. Mr. HEAD (United Kingdom) thanked the Committee for its constructiv comments and said that written answers to the Committee's questions would provided.

16. The CHAIRMAN commended the delegation for the report and for its frank dialogue with the Committee.

17. Mr. Head, Mr. Steel, Mr. Wells, Mr. Neale, Ms. Fitzgerald, Mr. S. Wong, Mr. P. Wong, Ms. Chan, Mr. Dean, Ms. Ip and Ms. Doherty (United Kingdom) withdrew.

18. Mr. Banton took the Chair.

Eleventh and twelfth periodic reports of Finland (CERD/C/240/Add.2; HRI/CORE/1/Add.59)

19. At the invitation of the Chairman, Mr. Aarnio, Mr. Kosonen, Ms. Pietarinen and Mr. Cortez Tellez (Finland) took places at the Committee table.

20. Mr. AARNIO (Finland) pointed out that Finland had undergone a demographic transformation in less than 10 years, with 69,000 resident non-Finnish nationals currently comprising 1.2 per cent of the population. Opinion polls showed that attitudes to foreigners had hardened among certain sectors of the population, especially the young. The Government of Finland had stepped up its efforts to combat racism and discrimination, and had recently appointed a working group on the subject.

21. Finland had joined the European Union in 1995. Membership had helped to increase knowledge of the phenomenon of racial discrimination and had had some impact on the status of the Samis and the Roma.

22. The Government had made a declaration under article 14 of the Convention but had not thus far been asked to comment on any communications. Finland had also signed and ratified the European Charter for Regional or Minority Languages. It had declared its intention to apply 59 provisions of Part III of the Charter to the Sami language as a minority language, and 65 provisions to the Swedish language as a less widely used official language of the State than Finnish. It would apply the general principles of Part II to the Roma language and other non-territorial languages to the extent appropriate. Finland had signed the Council of Europe Framework Convention for the Protection of National Minorities, which would be applicable to all the national minorities in the country once it entered into force.

23. The rights of minority groups and measures taken against discrimination had been detailed in periodic reports to various human rights treaty bodies, including the Committee on the Rights of the Child. In December 1994, the Government had appointed a high-level National Delegation against racism, xenophobia and anti-Semitism. The Delegation was answerable to the Ministry of Foreign Affairs and was mainly concerned with consciousness-raising activities in respect of racism and intolerance.

24. The second part of the revised Penal Code had entered into force on 1 September 1995 with some parliamentary amendments. The text of selected articles would be distributed to the Committee as an annex to the report. The revised chapter II of the Finnish Constitution Act of 1919, relating to fundamental rights, had entered into force on 1 August 1995 and applied

explicitly to all persons, including non-Finnish nationals, within Finland's jurisdiction. The task of monitoring the implementation of rights fell to the Chancellor of Justice and the Parliamentary Ombudsman. The main purpose of the revision had been to broaden and strengthen the constitutional protection of rights on the lines laid down by international human rights covenants, as well as to promote equality.

25. The issue of the Sami people was currently of public interest in Finland. Responsibility for coordinating Sami affairs had passed from the Ministry of the Interior to the Ministry of Justice. According to the new section 14 (3) of the Constitution Act, the Samis as an indigenous people, as well as the Roma and other groups, had the right to maintain and develop their own languages and cultures; the new constitutional provisions ensured inter alia the right of the Sami to use their language before the authorities - though not in parliamentary proceedings, contrary to the statement in paragraph 54 of the report - and to enjoy cultural autonomy within the Sami homeland. The new Sami Thing (Parliament) had been inaugurated the previous week. However, the new legislation had given rise to protests by the non-Sami population. One controversial issue was the new definition of a Sami formulated in section 3 of the Act on the Sami Thing, which an association of opponents to cultural autonomy claimed to embrace most of its members. The association was calling for fresh elections to the Sami Parliament, since its members had by definition been disqualified from voting in the previous elections, held before the Act had been passed. It was widely feared that the broader definition would allow a mass electoral registration of persons no longer connected with the ethnic population. The Act required the authorities to negotiate with the Sami Parliament on all measures which affected the Samis as an indigenous people.

26. The state of affairs he had described was complicating the process of ratification, by Finland, of ILO Convention 169 on indigenous and tribal peoples in independent countries.

27. One current cause for concern was prospecting and mining by foreign and multinational companies on Sami lands, which had increased following Finland's accession to the European Union. On the other hand, membership of the Union had brought benefits, including a place for the Sami Parliament in the European Bureau for Lesser Used Languages, in which the Finnish Roma would also be represented. Moreover, a working party of the Nordic Council of Ministers was to examine the feasibility of concluding a Nordic Sami Convention.

28. The revised Constitution Act also dealt with the right of the Roma to maintain and develop their own language and culture. Steps were being taken to promote book publishing and radio broadcasting in the Roma language. Roma housing conditions were being surveyed in cooperation with the Ministry of the Environment and the Ministry of Social Affairs and Health.

29. Although very few cases of discrimination had been heard in the courts, attitudes towards non-nationals had recently grown more hostile. Two cases - one in Jyväskylä involving discrimination, the other in Joensuu involving assault - had resulted in sentences for racially motivated offences against foreigners - fines in the first case and imprisonment in the second.

30. The Youth Campaign against Racism, Xenophobia, Anti-Semitism and Intolerance, launched on the initiative of the Council of Europe, had been carried out in Finland during 1995; in addition, several Government ministries had allocated funds to the Advisory Board for Refugee and Migrant Affairs for the programme "Towards a tolerant Finland".

31. Mr. YUTZIS (Country Rapporteur) said that he was impressed by the quality of Finland's reporting, especially on efforts to promote the rights of women and children in minority groups and prevent developments leading to racism, racial discrimination and xenophobia, and by the fact that there had been public participation in the preparation of the twelfth period report. He welcomed Finland's declaration under article 14 (1) of the Convention and had listened attentively to the details given in the oral presentation about the revision of the Penal Code.

32. The country's recent problems with racial discrimination were reflected in paragraph 86 of the report. But to uphold the assertion, reported in that paragraph, that acts of violence and vandalism against aliens in Finland were sporadic and unorganized, committed under the influence of alcohol or on a sudden impulse, was to ignore the underlying motivations for such acts. It appeared that some assaults on foreigners had been systematically organized and even filmed, and that the police had had difficulty in dealing with the incidents and in taking preventive action. With regard to the Joensuu case mentioned in the oral presentation, he had received a great deal of information, relating inter alia to police investigations of attacks on Somalis and Bangladeshis and the distribution of inflammatory posters. The incidents in Jyväskylä, where a number of foreigners had allegedly been assaulted, were comparable to the recent attacks against Turks in Rostock, Germany. The police were said to have evidence of the recruitment of young people by violent rightist organizations, but little was apparently being done to check racist attacks by skinheads on the streets of Finland.

33. He expressed concern about the amendment to the law on asylum and immigration, which had entered into force in October 1993 and allowed for the expulsion of refugees from what were known as "safe countries". He sought confirmation of his understanding that expulsions were carried out by the immigration police in the border areas. Representatives of UNHCR in Stockholm maintained that no one should be expelled at the border before benefiting from a period of asylum and that Finland should not be the first European country to adopt such legislation. He requested more information on the apparent discrepancy between the list of countries Finland considered "safe" and the list compiled by the Council of Europe, particularly in so far as it affected asylum-seekers or immigrants from the former Soviet Union, many of whom had been turned back. The Ombudsman had criticized the systematic refusal of asylum, and had called for an alternative system to be introduced. He asked what arguments had been adduced by the authorities in the case, now being heard in appeal, of 50 Somalis expelled in June 1995. The Somalis had come to Finland via Ethiopia and Kenya, which were regarded as "safe countries", and yet there was evidence that Somali refugees had been detained in those countries and even deported back to Somalia.

34. He sought clarification of the 1993 amendments to the law governing residence permits, which appeared to restrict the granting of permits to

persons having some direct family or other connection with Finland and therefore to constitute discrimination against applicants having no such prior connection. He understood that it was the Finnish diplomatic missions outside Finland which made the decisions and that they were not subject to appeal.

35. Although there had undoubtedly been many positive developments regarding the Sami issue, some questions remained. He referred to the problems arising from decentralization measures, mentioned in paragraph 58 of the report. There were two sides to the issue: decentralization was an appropriate tool to create a human rights culture among local authorities and political decision makers, while that culture would in turn support decentralization. On the issue of the use of the Sami language, referred to in paragraph 54, the problem of the lack of resources prompted the comment that, in general, where there was a will there was always a way. Referring to paragraphs 60, 62 and 63 of the report, he felt that the issue of land ownership for minority groups and indigenous communities was one involving not only resources but the personal and cultural identity of the groups and communities concerned. He drew attention to the conflicting interests over land ownership and use, and asked whether the conflict arose with the State or with private enterprises concerned with logging and exploitation of the mineral-rich bedrock, or with both. Those issues should be a matter of serious concern to the Government. On the subject of logging, he cited the extensive damage done to the crucial reindeer pastureland of Angeli, a matter that had been taken up by the Human Rights Committee, and the controversy over extensive tree-felling in the lichen-rich Mirhami area. The issue was not just one of damage to the land but concerned the failure to protect cultural rights. He also wished to know what position would be adopted by the Ministry of Trade and Industry with regard to mineral extraction. The difficulties in implementing the amendment to the Parliament Act concerning Sami participation in decision-making and the measures taken in that regard had been reflected in the delegation's oral presentation, but he could not fail to draw attention to the campaign conducted in a number of localities against the Act and against Sami rights and autonomy.

36. He noted the positive developments in policy and attitudes towards the Romany population, as described, in particular, in paragraphs 15, 71, 72 and 75 of the twelfth report. However, the Roma still faced serious problems. They were frequently stopped and questioned by the police and denied admittance to restaurants, despite fines imposed on proprietors; few Romany children finished school or pursued further studies, making it difficult for them to enter the labour market; and Romanies continued to face difficulties in finding work. In one case, a woman had been refused employment on account of her traditional dress. It was significant that, in the very few cases where the difficulty of instituting legal proceedings had not prevented actions being brought in respect of discrimination, the courts had ruled on access by Romanies to restaurants rather than incitement to discrimination. There was evidence of discrimination in housing, a point raised by the Parliamentary Ombudsman, and the reasons for the lack of teaching materials for Romany language classes needed to be addressed. The Advisory Board for Romany Affairs was to be commended for the strong line it had taken on those issues. However, the Committee was hampered in its assessment of the situation by the lack of statistics concerning the Romany population.

The meeting rose at 6 p.m.

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Forty-eighth session

SUMMARY RECORD OF THE 1142nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 March 1996, at 10 a.m.

Chairman: Mr. BANTON

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GE.96-15512 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Eleventh and twelfth periodic reports of Finland (CERD/C/240/Add.2) (continued)

1. At the invitation of the Chairman, the members of the Finnish delegation resumed their seats at the Committee table.

2. Mr. VALENCIA RODRIGUEZ welcomed the public debate on the Convention that had been held during the preparation of the report of Finland (see para. 9 of the report), the establishment of a new Advisory Board for Refugee and Migrant Affairs, and the reinforcement of the legal status of the Advisory Board for Romany Affairs. The Committee hoped to be kept informed of the activities undertaken by those bodies with the aim of combating racial discrimination.

3. He noted that the Government had submitted a bill amending the Constitution so as to incorporate the principle that the rights enshrined in human rights instruments to which Finland was a party should apply to all persons residing in Finland, regardless of their nationality (para. 44). However, the revised version of article 5 of the Constitution did not explicitly mention the race or national or ethnic origin of the persons whom that article was supposed to protect (para. 45).

4. With regard to the reform of the Penal Code, he noted that the amendment to article 5, concerning incitement to discrimination, which had not been accepted, could have broadened the scope of the protection afforded against such acts and it would be useful to know how that provision was implemented. On the other hand, he welcomed the adoption of the amendment to article 6 of chapter 12, under which any discrimination on the grounds of race or national or ethnic origin was now prohibited in a number of sectors, such as trade, public service and public entertainment.

5. With regard to the Saami people, the legislative changes which conferred on that group the right to use its language, notably in dealings with the authorities, were commendable. It was to be hoped that the Government would ensure that the Saamis were able to exercise that right in practice. It would also be interesting to have more details on the revision of the legislation concerning reindeer husbandry and the Wilderness Act of 1991, to which reference had been made in paragraphs 59 and 60 of the report. With regard to the measures taken to develop teaching of the Saami language (paras. 64 and 65 of the report), the Committee had no doubt that the Government would succeed in overcoming the practical obstacles that were impeding achievement of that goal.

6. Concerning the Romanies, it was to be hoped that the Government and the Advisory Board for Romany Affairs would succeed in their endeavours to reduce the very high school drop-out rate among Romany children, to effectively combat the discriminatory attitude of other schoolchildren towards them and to

develop teaching of the Romany language. Finally, there was a need to simplify the procedure that Romany victims of discrimination must follow in order to enforce their rights.

7. Mr. YUTZIS (Country Rapporteur) said that the Committee on the Rights of the Child had been relatively harsh in its judgement of the manner in which the children of ethnic minorities were treated in Finland. Those children were apparently exposed to hostile behaviour on the part of the teaching and administrative staff of schools, did not fully enjoy the right to medical care and, in some cases, had to pass a language proficiency examination before being admitted to vocational schools. He was also concerned at the manner in which family reunification was being obstructed, the requirement, introduced in August 1995, for DNA tests and the expulsion of three Somali children in February 1994.

8. With regard to the implementation of article 4 of the Convention, he noted that draft article 8 of chapter 11 of the Penal Code applied to persons who incited others to racial hatred, but not to organizations or groups which did the same. In that connection, he recalled that, in the city of Turku and elsewhere, Nazi groups had organized meetings which the public authorities had done nothing to prevent. Magazines vindicating Western white culture, as opposed to other cultures, were also published.

9. In its next report, Finland should provide more detailed information on the implementation of article 5 in the fields of health, housing, employment and teaching as it affected the racial or ethnic minorities. To that end, it would also be interesting to know whether Bill HE 309 of 1993, concerning the fundamental rights of all, had been enacted.

10. Concerning the implementation of article 6 of the Convention, paragraph 50 of the report indicated that charges were very rarely brought in cases of racial discrimination. That was regrettable since, although criminal proceedings would not in themselves suffice to eliminate racial discrimination, they could at least contribute to that goal. Paragraph 86 of the report stated that acts of xenophobia were only of a sporadic nature. In his view, the problem might be much more deeply-rooted; he hoped that the Finnish Government would take effective measures to combat the disturbing increase in xenophobia which was threatening the entire social fabric. It would also be useful to conduct multidisciplinary surveys to obtain a better idea of the extent of the problem.

11. Mr. de GOUTTES thanked the Finnish delegation for the information it had given the Committee, but nevertheless regretted that the twelfth report had been submitted belatedly. He shared the views expressed by Mr. Valencia Rodriguez concerning the public debate that had been held during the preparation of the report and concerning the establishment or reinforcement of the bodies responsible for the protection of minorities and refugees. In that regard, there seemed to be a connection between the exceptional growth in the foreign population during the past five years and the increase in xenophobia. It would therefore be interesting to know the exact number of foreigners, since they amounted to 56,000 according to the Government and 67,000 according to the Finnish League for Human Rights.

12. Concerning article 2 of the Convention, the Finnish delegation might wish to provide details of the regulations governing journalistic practices in regard to information relating to minorities, to which reference was made in paragraph 30 of the report.

13. On the subject of the implementation of article 4 of the Convention, he pointed out that draft article 8 of chapter 11 of the Penal Code was more restrictive than the present article 5 of chapter 13, as could be seen from paragraph 38 of the report, since it laid down further conditions for the conviction of persons making racist remarks in public: such remarks must not only be intended to "cause violence, hostility or discrimination" but must also be "likely to produce the said consequences". Furthermore, the same article reduced the penalty of imprisonment prescribed for such acts to one year, whereas it had previously been two years. Such a reduction might be interpreted as an attenuation of the prohibition of racist acts.

14. In paragraph 85 of the report, the Government acknowledged that foreigners and members of minorities faced obstacles if they wished to bring a criminal action in the event of discrimination. It would be interesting to know what measures the Government intended to take to remove those obstacles, whether the organizations defending the victims of discrimination could bring a civil action and whether the victims were entitled to legal aid.

15. Finally, it would be useful to have statistical data concerning recent trends in the number of complaints and prosecutions in respect of discrimination and to know whether any steps had been taken to implement the idea of appointing an ombudsman against ethnic discrimination.

16. Mr. CHIGOVERA said that, according to the Finnish League for Human Rights, the Government had, at least initially, reacted quite weakly to the rise in racism. For example, in response to the Archbishop of the Lutheran Evangelical Church, who had stated in 1990 that he regarded racism as a sin, the President of the Republic had said that he had never heard of such a sin. Moreover, the Government had apparently remained relatively passive in the face of the campaigns launched by the opponents of the 1995 Act designed to protect the rights of the Saamis.

17. Again, according to the above-mentioned NGO, the laws in force were not sufficient to protect the Romanies effectively against the acts of discrimination to which they were subjected by the municipal authorities. For example, a municipality had apparently refused to rent a dwelling to a Romany couple on the pretext that that would have disturbed the other residents. Moreover, the Romanies were allegedly under special police surveillance. It was also difficult for them to enter restaurants, in spite of the penalties that had in some cases been imposed on persons who had denied them access. It might be asked, therefore, whether the existing laws, and particularly the penalties they prescribed, were sufficient to guarantee the rights of the Romanies.

18. He shared the views expressed by Mr. de Gouttes concerning paragraphs 38 to 40 of the report and felt that the new provisions of the Penal Code were insufficient to give full effect to the provisions of article 4, under the terms of which States parties were required to ban organizations that incited

to racial discrimination. According to the Finnish League for Human Rights, overtly racist publications were offered for sale, virtually with full impunity, in bookshops.

19. Finally, it would be interesting to know whether the police recruited members of minorities. If that were not the case, it would be easier to understand the difficult relations between the police and minorities, as well as the reluctance of the police to investigate acts of racial discrimination.

20. Mr. DIACONU expressed surprise at the belated submission of the twelfth periodic report of Finland but congratulated the delegation on the frankness with which it had portrayed the situation prevailing in the country. Finland was a democratic country that enjoyed great political stability and the Committee was therefore entitled to be demanding in regard to it. He was concerned at the acts of racial violence, particularly those committed by skinheads, and wished to know how the Government intended to combat that phenomenon and whether there were any statistics relating to it. He noted with satisfaction that the proposed amendment to the article of the Penal Code relating to discrimination had not been accepted, but nevertheless felt that the present text remained inadequate. The periodic report provided very little information on the implementation of article 4, on which Finland had not expressed any reservation. He wished to know the measures that the Finnish Government had taken against the "National Radical Party", which was disseminating extremist and racist ideas.

21. Concerning the Saamis, he was concerned at the fact that forestry activities were being undertaken on the territory where the Saamis were raising reindeer, and he mentioned the complaints that had been sent to the Human Rights Committee on that subject. Finally, he requested fuller information on the minorities living in the autonomous province of the Åland Islands, on the Russian minority that had recently settled in Finland and on the Romanies.

22. Mr. SHERIFIS said that the detailed report which the Finnish League for Human Rights had transmitted to the Committee contained certain allegations concerning the preparation of the report of Finland on which he would like to have the opinion of the Finnish delegation.

23. He noted with satisfaction that Finland had made the declaration provided for in article 14 of the Convention and had ratified the amendment to article 8, paragraph 6, of the Convention. Finland had also ratified the European Charter for Regional or Minority Languages of the Council of Europe and had adopted significant legislative changes, particularly an enactment concerning the right to use the Saami language in dealings with the authorities.

24. He expressed concern at the resurgence of racial violence in Finland and would welcome information concerning the Swedish-speaking population, which had not been taken into account in the periodic report. He also wished to have details concerning the refugee quotas and the measures the Finnish Government had taken in regard to refugees.

25. In conclusion, he emphasized that, if the Committee was adopting a highly critical attitude towards Finland, a country with which he was familiar and for which he had great esteem, it was because Finland could serve as a model for other countries in regard to the implementation of the Convention.

26. Mr. van BOVEN considered, like other members of the Committee, that article 4 of the Convention was not being implemented in a satisfactory manner in Finland; he wished to know whether specific legislation had been enacted to give effect to the provisions of article 4, paragraph (b). He noted with interest that the excessively restrictive amendment to article 5 of the Penal Code had not been adopted but, like Mr. Diaconu, he thought that the present wording should nevertheless be amended. It would be useful to have details concerning the implementation of that article of the Penal Code and also concerning the revision of article 5 of the Constitution, which should reflect the wording of article 1 of the Convention in a more explicit manner.

27. Although the report contained abundant information on the Saamis and the Romanies, it said virtually nothing about the other minorities, particularly in regard to the rights referred to in article 5 (f) of the Convention. He wished to know why the Finnish Government was not respecting the interim measures that the Human Rights Committee had taken to prohibit the felling of trees on the lands occupied by the Saamis (Länsman et al. v. Finland case). Finally, he requested information concerning the right of victims of racial discrimination to reparation, in accordance with article 6 of the Convention.

28. He noted with satisfaction that Finland had made the declaration provided for in article 14 of the Convention and hoped that measures would be taken to give wide publicity to the procedure in question. He expressed the hope that the International Convention on the Elimination of All Forms of Racial Discrimination had been translated into Finnish and widely disseminated in Finland and that the report of Finland and the conclusions of the Committee would be translated and disseminated in a similar manner.

29. Mr. RECHETOV noted with interest that Finland had adopted a new definition of the Saami people which took into account the latter's linguistic and cultural characteristics. He requested the Finnish delegation to distribute the text of its statement introducing the report, since it contained very interesting information on the Saamis. And like Mr. Sherifis, he would welcome details on the Swedish minority living in Finland, and particularly those in the Åland Islands.

30. Mr. GARVALOV had only one question. He simply wished to know whether the International Convention on the Elimination of All Forms of Racial Discrimination could be invoked directly before a Finnish court.

31. The CHAIRMAN, speaking as a member of the Committee, said with reference to the acts of racial violence that the Finnish Government should take measures to improve the training of police officers at all levels. That was a problem which all European countries were currently facing.

32. Mr. AARNIO (Finland) apologized for the belated submission of his country's twelfth periodic report and assured the Committee that his

Government would endeavour to submit the next report on time. The thirteenth report would also include replies to the questions that the delegation had not had time to answer at the present session.

33. In response to Mr. Yutzis, who had raised the question, he said that the Finnish Government was aware only of the potential effects of decentralization, during a period of recession, on the situation of the minorities; that did not mean that problems would actually arise or had already arisen.

34. The inadequacy of the resources appropriated for translation and interpretation into the minority languages was admittedly a question of political will. However, it could also be explained by financial considerations and the fact that three different Saami dialects were used in Finland.

35. His delegation was not in a position to give a detailed reply to all the important questions that Mr. Yutzis had raised concerning the Romanies, but it had taken careful note of them. The Government was currently preparing special measures to improve the situation of the Romanies. It should be noted that, with effect from April 1996, five provincial advisory boards for Romany affairs would come into operation. Their task would be to monitor the extent to which the rights of the Romanies were respected and to ensure the preservation of their language and culture and the realization of their economic, social, cultural and political rights. The boards would be able to raise questions concerning ethnic conflicts and problems of discrimination and submit proposals to the National Board for Romany Affairs.

36. In reply to the question raised by Mr. de Gouttes, who wished to know the latest figures for the non-Finnish population, he said that about 70,000 immigrants and 13,000 refugees were currently living in Finland. The idea of establishing a post of mediator (ombudsman) against discrimination, based on the Swedish model, was currently being examined by a working group which, to that end, had heard the Swedish mediator against discrimination, as well as representatives of the Romanies and the Saamis.

37. Russian-speakers did not really constitute a minority and, with the exception of a few hundred persons of Russian origin who had settled in the country 200 years before, most of the 20,000 other Russian-speakers were regarded as recent immigrants. The Swedish-speaking population was a de facto rather than de jure minority. Its language was an official language, it shared the same values as the Finnish-speaking population and the Government always comprised one or two ministers belonging to that population group. With regard to the definition of the autonomous Saami people, he explained that the Saamis once again wished to restrict that definition, fearing that the ethnically non-Saami population of Lapland might wish to occupy seats in the Saami parliament. That fear was understandable and the question was currently being debated within the Ministry of Justice.

38. Mr. CORTES TELLEZ (Finland), referring to the changing attitude of Finns towards immigrants and refugees, said that it had been the subject of studies by the Ministry of Education and the Ministry of Social Affairs and Health. Those studies had shown that, in general, the Finns had become more inclined

to view the increase in immigration as a social threat: 19 per cent of them felt that no further refugees should be admitted. City-dwellers, young people and the most highly educated persons manifested more favourable attitudes. There was an obvious link between those feelings and the economic recession and increasing unemployment in Finland.

39. The members of the Committee had said that it was difficult to form an overall impression of the offences and acts of violence committed for social reasons. In fact, there were no national statistics in that regard. However, the police were planning to introduce, in the near future, a surveillance system that would make it possible to compile such statistics, which could be communicated in the next report.

40. On the subject of police training, he said that the two basic courses intended for future police officers included briefings concerning the law on aliens and its practical effects on police work. Police officers also attended courses comprising sociological and psychological components, as well as a seminar on questions concerning aliens. Those who were in regular contact with aliens in the course of their work attended additional special courses.

41. In contrast to many other European countries, there were no large racist parties or organizations in Finland. The racist groups that existed were small, disappeared as quickly as they appeared and had no real political influence. He referred to the case of the National Radical Party, a neo-Nazi party which had claimed to have 107 members a few years before and which, in 1993, had been sentenced to a fine for incitement to racial hatred. Of the publications disseminating racist propaganda, the most violent had been banned, but unfortunately, they often reappeared under a new name.

42. Finally, with regard to the media, there was no legislation governing their activities in that field. Journalists had a code of ethics, the further elaboration of which was under consideration but which already contained guidelines concerning the manner in which questions relating to refugees and immigrants should be treated. In particular, those guidelines prohibited them from mentioning a person's ethnic origin in an article unless the subject-matter of the article made such mention absolutely essential.

43. Mr. KOSONEN (Finland) confirmed that the Convention was directly applicable in Finland, since all the international conventions that Finland had signed had been incorporated in its domestic law. On the whole, the courts attempted to find the solutions that were most favourable to human rights. The associations or organizations referred to in article 4 of the Convention were regulated primarily by the law on associations. Finland had a very large number of associations, which did not need to be registered. However, an association that infringed the provisions of the law or an international convention could be penalized by a temporary or permanent ban on its activities.

44. Referring to the various cases involving the rights of the Saamis which had been brought before the Human Rights Committee, he said that, in the first case concerning the Angeli region, the Länsman et al. v. Finland case, the Human Rights Committee had concluded that there had been no violation of

article 27 of the International Covenant on Civil and Political Rights, but it had also stated that article 27 might be violated in the event of an appreciable expansion of the mining activities in that region. Hence, there was a certain threshold that must not be crossed. The question of that threshold had also been raised in the second case concerning the Angeli region which had been adjudicated by the Finnish courts and was currently before the Human Rights Committee. He could not discuss the measures advocated by the Committee, which were confidential. However, he could refer to the interim measures that the Committee had also proposed, since they had been made public; their aim was to prevent the activities complained of from causing irreparable damage to the environment, and his Government had accepted some of them. With regard to the measures taken to assist Saami families, the Government was devoting considerable resources to the fulfilment of the commitments that it had made and would continue to make.

45. Concerning the countries which Finland regarded as "safe", he mentioned those that had acceded to the Geneva Convention without any reservation of a jurisdictional nature, and the countries of the Council of Europe, since they respected the primacy of the law. Russia and Estonia fell within that category only in regard to their nationals.

46. Mrs. PIETARINEN (Finland) assured the Committee that the severe criticism of Finland by the Committee on the Rights of the Child was currently being debated in Parliament. Some experts had expressed concern at reports to the effect that there were not enough teachers, teaching material and hours of tuition to teach the Saami, Romany and other foreign languages. In fact, in a multidisciplinary high school, immigrants could study their own language - of which there were 40, including Somali, Russian, Vietnamese and English - as a first language and study Finnish and Swedish only as a second language. With effect from 1996, students of foreign mother tongue would be able to sit a final examination in Finnish or in Swedish which would be different from that set for students of Finnish mother tongue. Moreover, in the districts inhabited by Saamis, tuition could be given in Saami up to the secondary level and the municipalities organizing such tuition received subsidies from the Government. In 1995-1996, about 600 students had been able to receive instruction in that language.

47. In reply to the questions concerning the Romanies and their high rates of school drop-out and unemployment, she could already say that plans had been made to provide extra curricular tuition in Romany for two hours a week. Vocational training courses were also held for unemployed persons. The thirteenth report would provide the Committee with a more detailed account of the situation of that minority.

48. Finally, she assured the Committee that her Government was giving wide publicity to the Convention, which had been published in Finnish and Swedish, and the public had access to all the periodic reports, in English and Finnish. The Committee's conclusions would also be considered in the near future by the Advisory Board for International Human Rights Affairs.

49. Mr. ABOUL-NASR said that, not so long before, neither the Committee nor he himself had accepted the argument of some representatives of Muslim countries to the effect that problems of racial discrimination were unknown in

their countries for the simple reason that Islam prohibited such discrimination. For his part, he was equally unwilling to consider a European State as "safe" simply because it was European and, hence, democratic. In fact, not all European States were truly democratic; some of the most serious situations of racial discrimination had occurred in Europe. It would be interesting if Finland could specify, in its next report, which States it regarded as democratic. In what category would it put India, for example?

50. Mr. SHERIFIS requested a reply to the question he had asked about refugee quotas. He also wished to know, in particular, whether the Swedish-speaking community, which was very well integrated in Finnish society, was regarded as an ethnic or a linguistic group. The difference was important, given the aims of the Convention.

51. Mr. de GOUTTES expressed interest in the draft code of conduct for journalists and, in particular, the manner in which questions concerning minorities and racial discrimination should be dealt with, since the media played a very important role in shaping the attitude of the public towards discrimination.

52. The Finnish delegation had referred to cases that had been brought before the Human Rights Committee. He thought that some of those cases - those concerning the impact of industrial activities on the situation and environment of the Saamis, for example - could have been brought before the Committee on the Elimination of Racial Discrimination, thereby enriching the current debate on the question of the purport of certain individual petitions.

53. Mr. CHIGOVERA pointed out that he had not received a reply to his question whether the ethnic minorities were represented in the police force.

54. Mr. YUTZIS (Country Rapporteur) said that, in his opinion, both the periodic report and the oral statement of the representative of Finland showed that, on the whole, article 4 of the Convention was not being implemented in a fully satisfactory manner in Finland. Although progress had undoubtedly been made, the new instruments that had been adopted applied to persons rather than organizations. It was disturbing that non-registered organizations could exist in Finland, and even more so that registered organizations could not be duly punished.

55. He contested the affirmation that Finland was an exception. Such an affirmation implied that the increase in racism and xenophobia was not being taken seriously enough in that country. It was current trends rather than already outdated statistics that needed to be studied in order to assess the situation. In its report, the Finnish League for Human Rights had referred to a survey of the attitude of Finns towards foreigners, which showed that 65 per cent of those over 64 years of age were in favour of the expulsion of foreigners in order to combat unemployment and, even more disturbingly, 61 per cent of the 15-18 year age group, which represented the future of Finland, were likewise in favour of that measure. Since the unemployment rate in Finland had increased from 9 per cent to 20 per cent, the country was faced with a dilemma that had become universal: how to solve the problems of unemployment in a post-industrial society. Finland was no longer an exception.

56. With regard to the distinction that Finland drew between "safe" and other countries, he had been just as surprised as Mr. Aboul-Nasr by the manner in which Finland associated "safe" with "democratic". Although the debate that was currently taking place in Finland on that subject had not been concluded, the representative of the High Commissioner for Human Rights in Sweden had unquestionably been highly critical of the legislation that Finland was preparing to adopt on the repatriation of refugees to their home countries. In fact, refugees who had returned to some allegedly "safe" countries had been severely ill-treated there.

57. With regard to the Saami populations, it should also be noted that the deforestation of their lands was attributable not only to the private sector but also to the State, the argument being that it was not harmful to their culture. In his view, that depended entirely on what was meant by "culture".

58. Finally, he hoped that much more serious multidisciplinary surveys would be undertaken on police training. To the best of his knowledge, there were no mechanisms to monitor and evaluate that training.

59. Mr. KOSONEN (Finland) pointed out that, in order to be admitted to the Council of Europe, a country must be a constitutional State and must have ratified the European Convention on Human Rights, the implementation of which was very closely monitored. However, no country could be said to be perfect.

60. Mr. CORTES TELLEZ (Finland) admitted that, although there was no major political party with racist tendencies in Finland, the country was not totally free from racism. It should be noted, however, that that phenomenon had not assumed an organized form.

61. With regard to public opinion concerning immigrants and refugees, the younger generation was certainly less tolerant than before, but the Government, some NGOs and some groups of immigrants were aware of that fact; a campaign against racism and xenophobia had been launched and endeavours were being made to teach the younger generation to be more tolerant.

The meeting rose at 1 p.m.

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on the Elimination
of all Forms of
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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1143rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 March 1996, at 3 p.m.

Chairman: Mr. BANTON

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OTHER MATTERS

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GE.96-15516 (E)

The meeting was called to order at 3.05 p.m.

ORGANIZATION OF WORK (continued)

Draft statement of the Committee on the Elimination of Racial Discrimination (CERD/48/Misc.12/Rev.1)

1. The CHAIRMAN invited the Committee to consider a revised draft statement condemning terrorist acts in Israel.

2. Mr. van BOVEN said that the wording of the second paragraph of the statement was not as clear as that of the original draft. The original was therefore preferable.

3. Mr. FERRERO COSTA said that, although he had suggested amendments to the second paragraph, he had no objection to the original wording being restored.

4. Mr. ABOUL-NASR said that the Committee should make it abundantly clear that it condemned any killing of innocent people. In the last line of the third paragraph, therefore, the phrase "these despicable acts of terrorism" should be replaced by "all acts of terrorism".

5. Mr. RECHETOV, supported by Mr. de GOUTTES, suggested that the last sentence of the second paragraph should be transposed to the end of the third, as amended by Mr. Aboul-Nasr.

6. Mr. GARVALOV said that, if the Committee agreed, the draft statement would be issued immediately to the press, the Secretary-General of the United Nations, the High Commissioner for Human Rights, the Assistant Secretary-General for Human Rights and the parties directly concerned.

7. The CHAIRMAN said he took it that the Committee wished to adopt the draft statement, as amended by Mr. Aboul-Nasr and Mr. Rechetov, for transmission to the parties mentioned by Mr. Garvalov.

8. It was so agreed.

Submission of periodic reports

9. Mr. O'FLAHERTY (Secretary of the Committee) said that the Committee should decide whether to defer consideration of the periodic reports due from Pakistan, which had requested postponement until the Committee's next session, and from Nepal, which had asked for a review at a later date, and of the newly arrived report from India.

10. After a discussion in which Mr. ABOUL-NASR, Mr. SHERIFIS and Mr. FERRERO COSTA took part, the CHAIRMAN said he took it that the Committee wished to defer consideration of the periodic reports of Pakistan, India and Nepal.

11. It was so agreed.

12. Mr. van BOVEN requested information on the situation regarding the periodic report of Cambodia.

13. Mr. O'FLAHERTY (Secretary of the Committee) said that the Secretariat had been informed that the report was nearing completion and would be submitted in time for consideration by the Committee at the next session.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Eleventh, twelfth and thirteenth periodic reports of Hungary (CERD/C/263/Add.6; HRI/CORE/1/Add.11)

14. At the invitation of the Chairman, Mr. Naray, Mr. Szapora and Mrs. Hevesi (Hungary) took places at the Committee table.

15. Mr. NARAY (Hungary) said that, during the reporting period, Hungary had undergone profound changes in its political, economic, legal and social system. Hungary's basic legislation, including the Criminal Code and the Labour Code, had been amended to reflect the new situation. The establishment of the Constitutional Court had been a key factor in introducing the rule of law. The Court had jurisdiction to consider constitutional complaints, including those of individuals. New laws had also been adopted on such matters as freedom of conscience and religion, freedom of association, elections, emigration and immigration, the press and minorities. Hungary had ratified all the important human rights conventions and incorporated them in domestic law.

16. Pursuant to the Ombudsman Act of 1993, three parliamentary commissioner or ombudsman posts had recently been established, including one for human rights and one for national and ethnic minority rights. Parliamentary commissioners acted independently, either on their own initiative or on the basis of citizens' complaints concerning administrative injustice or maladministration on the part of governmental bodies or officials. They could approach the Constitutional Court for rulings on the constitutionality of the judicial interpretation of laws and could even propose the repeal or amendment of legislation affecting a large community of citizens. The Parliamentary Commissioner for national and ethnic minority rights was a member of the German minority living in Hungary. He could examine conflicts affecting minorities and initiate measures to prevent conflict.

17. Elections for local minority self-governing bodies had been held in November 1995. Eleven national and ethnic minorities had entered a total of 1,051 candidates. As a result of the elections, 61 local governments had been set up by Gypsies, 38 by Germans, 13 by Slovaks, 7 by Armenians, 6 by Croats, 5 by Poles, 4 by Greeks, 2 by Bulgarians and 1 each by Romanians and Slovenians. The Serbs and the Ukrainians had not entered candidates and the election for the single Ruthenian local government had been declared invalid. Of the elections held in 13 Budapest districts, only that of the Armenians in the 9th district had been declared invalid. Agreement had been reached on the allocation of premises for national minority self-governing bodies, which they would be entitled to use free of charge.

18. With regard to the Roma population, the Government had drawn up a programme of action for the Roma people in cooperation with the national Roma minority self-governing body. The programme would cover a number of areas, including education, employment and anti-discrimination measures. At the end of 1995, the Government had also set up a commission to coordinate activities in respect of the Roma minority and a public foundation to promote equal opportunities for Romas and provide assistance in the areas of education, housing and private enterprise.

19. The Act on the Media, adopted in December 1995, laid down stringent broadcasting rules, including the prohibition of incitement to hatred against individuals, peoples, nations, national, ethnic, linguistic or other minorities, churches or religious groups, and of the condemnation or deprecation of any person or group on racial grounds. The public broadcasting service was required to publicize the cultural values of national, ethnic or other minorities.

20. Pursuant to the Act, subsidies could be provided for programmes in the mother tongue of the national and ethnic minorities and for programmes presenting their life and culture. Article 26 (1) and (2) of the Act provided that the culture and language of national and ethnic minorities should be promoted through the provision of information in their mother tongue and, if necessary, through television subtitling or multilingual broadcasting. The national minority self-governing bodies decided how to use the air time allocated to them and their decision was final.

21. The President of the Republic of Hungary had proposed an amendment to the Penal Code to ensure more effective prosecution of racially motivated acts, which was likely to be adopted shortly. Hungary was expected to be the first country in Central and Eastern Europe to provide for compensation and/or the return of property confiscated from the Jewish population. Discussions were being held with representatives of the Jewish community on the establishment of a foundation which would also provide pensions.

22. Efforts had been made to conclude bilateral agreements with neighbouring countries on cooperation for the improvement of minority rights. Various classes of agreement on the subject had been concluded with Ukraine, Croatia, Slovenia and Slovakia, and an agreement was being negotiated with Romania.

23. The Government remained committed to providing temporary protection for refugees and asylum-seekers in accordance with its international obligations, and was prepared to participate in international operations for the early, voluntary and orderly return of refugees to Bosnia and Herzegovina under the Dayton Agreement.

24. Hungarian civil society was currently very active in the promotion of tolerance and understanding. A multicultural education programme had been introduced in secondary schools and should soon be followed by a special teacher-training course at universities. Hungarian society was becoming ever more tolerant, and the incidence of racially motivated crime continued to decline.

25. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) welcomed the information in section I of the report on constitutional and legislative reforms, including the declaration made under article 14 of the Convention, and on new legislation, particularly the Act on the Rights of National and Ethnic Minorities. With reference to article 2 of the Convention, he welcomed the adoption of a new policy on minorities, as reflected in the setting up of the independent Office for National and Ethnic Minorities, on which he requested further information. Since the Act did not cover the "new" minorities mentioned in paragraph 28, he hoped that the Government, bearing in mind the principle of equal rights for all minority groups, would consider ways of ensuring that such minorities were no worse off than those of longer standing. The Act contained commendable provisions which protected the right to national or ethnic identity, including the use of national languages and measures to promote them. Despite the progress mentioned in the oral presentation, however, the marginalization of a large part of the Gypsy population persisted, heightened by the current economic crisis, and discrimination against them, even by the police, reportedly remained widespread. The Committee required further information in that regard.

26. The Government was to be commended for making every effort to comply with its obligations under article 4. With regard to the Constitutional Court's annulment of part of article 269 of the Penal Code, however, the reasons adduced in paragraphs 53-56 of the report appeared to be based on a restrictive interpretation of article 4 and to be at variance with the Committee's general recommendation XV. While there was no denying the importance of freedom of expression and of the principle of proportionality, he hoped that the Government would take note of the Committee's views in that regard and reconsider its position on the full implementation of article 4, bearing in mind the need for international legal rules to be incorporated in domestic legislation. He was pleased to note from paragraph 60 that the President of the Republic felt it urgent to amend the Penal Code in order to make punishable the persecution of national, ethnic, racial or religious groups; he hoped that the Committee would be informed about the progress of the bill tabled in that regard.

27. While welcoming the provision of statistical data on relevant criminal offences he felt that, in certain cases involving clear violations of article 4 (a) and (b) of the Convention, the penalties imposed were disquietingly lenient; he hoped that future sentencing would be more in keeping with the obligations assumed under the Convention. He also hoped that the Committee would receive information about attacks on Gypsies, including a reported incident in the neighbourhood of Örkény on 21 May 1993, and about assaults on refugees from Bosnia and Herzegovina, including an incident at the Nagyatád refugee camp on 2 August 1993.

28. With reference to article 5, Hungary was to be congratulated on having become a country of asylum; he hoped that the Committee would be kept abreast of developments in that regard. He also wished to receive further information on the legal remedies available to foreigners in connection with entry, residence and immigration regulations.

29. With regard to paragraph 78 of the report, he wondered to what extent non-Hungarian citizens residing permanently in Hungary had availed themselves

of the right to vote granted by the new Election Acts, and whether there were any restrictions on that right. The new civil service regulations, outlined in paragraph 82 merited further elucidation.

30. In connection with article 6 of the Convention, he welcomed the safeguards introduced to ensure the availability of legal remedies, and commended the work of the National Assembly Commissioner of Civil Rights and the Constitutional Court. Hungary was making great strides with regard to compliance with article 7, especially in the fields of education, public information and minority group activities. The Committee should be provided with more detailed information on activities geared to publicizing the Convention for the benefit of minority groups, especially those on the fringes of society.

31. Mr. RECHETOV said that he, too, welcomed the information provided by the report on the rights safeguarded under the Hungarian Constitution, including those of national and ethnic minorities. With regard to the new policy on minorities referred to in paragraph 13, he wondered whether the effects would be felt uniformly among minorities or whether there might be disparities as a result of possible differential treatment of certain minorities in the past. In connection with paragraph 26, he expressed reservations regarding the criteria used for the definition of a national or ethnic minority.

32. With regard to paragraphs 34-37, he requested further details on the legislation and constitutional provisions relating to the autonomy and self-government of minorities. The Committee was always cautious about measures which might be deemed to foster self-determination or secessionist tendencies. Hungary's comments on that matter would be appreciated. He also wished to receive more detailed information on the agreements concluded with neighbouring States in respect of ethnic minorities, which had been mentioned in the oral presentation.

33. With reference to paragraphs 30-33 on minority rights, the maintenance of links with ethnic kin in other States was to be welcomed in many respects, but could have implications for national boundaries and even political stability; strict observance of the sovereign integrity and political independence of States was of paramount importance, and he wondered why that particular point had not been dealt with. Generally speaking, however, the fact that minority rights were increasingly covered by national legislation ought to enhance stability.

34. He found it difficult to understand, from a reading of paragraphs 51-56 of the report, why the Constitutional Court had ruled that incitement to hatred was a punishable offence under the Penal Code but insulting expressions and acts were not. The borderline between insulting behaviour and incitement to hatred was very thin. Those were complex issues requiring strict legal definition and regulation to ensure that comprehensive action was taken against all forms of racial discrimination. With reference to the new criminal offence of incitement to hatred dealt with in paragraph 51, he questioned the distinction drawn between the Hungarian nation and other national minorities or groups, which suggested that preference was given to the dominant national group from the standpoint of protection. He sought clarification of the priority implicitly granted to the Hungarian nation,

and drew the attention of the Hungarian authorities to article 1 of the Convention, which referred to "any" distinction or preference.

35. Mr. de GOUTTES said that Mr. Rechetov had raised some very important points which he hoped would be fully discussed by the Committee. He paid tribute to the Hungarian Government for accepting the procedure under article 14 of the Convention, for the work accomplished in establishing the rule of law and a pluralist, democratic society, as attested by Hungary's early admission to the Council of Europe, and for the far-reaching transformation of the legal system, bringing it into harmony with international human rights instruments, as described in paragraphs 2 and 3 of the report.

36. Of particular interest to the Committee were Hungary's highly innovative, progressive policy, unprecedented in international law, towards minorities, and the 1993 Act on the Rights of National and Ethnic Minorities. By affirming the collective rights of minorities and instituting a system of self-government, Hungary had adopted an avant-garde position in political terms, in contrast to other countries which recognized only the individual rights of persons belonging to minorities, thus giving priority to social integration over the "right to be different".

37. There were, however, persistent gaps or "grey areas" in legislation and practice. He was not sure that the arguments adduced by the Constitutional Court, as described in paragraphs 52 56 of the report, to justify its ruling that insulting expressions or acts did not constitute an offence, were consistent with the requirements of article 4 of the Convention and the Committee's general recommendation XV on the interpretation of that article. Paragraph 60 of the report suggested, however, that there might be some hope for a new amendment to the Penal Code in the context of the rising incidence of racial discrimination. He noted with some surprise that article 269 of the Penal Code made incitement to hatred against a national minority or the Hungarian nation a punishable offence. He asked whether that offence was consistent with the liberal policy adopted towards minorities and the rejection of assimilation, and whether it had given rise to any prosecutions or convictions.

38. Concerning the right to redress under article 6 of the Convention, while welcoming the facts and figures given, he noted with concern that most of the victims of discriminatory incidents were "persons of Gypsy origin" and "coloured people from foreign countries". The involvement of young people and, increasingly, groups of skinheads was particularly disturbing. The fact that there were few convictions and that a number of investigations had been halted prompted him to ask whether the police and judicial authorities were sufficiently diligent in pursuing investigations and prosecuting offenders.

39. He asked whether the statement in paragraph 85, that the labour centre issued labour permits for foreign persons if no adequately trained Hungarian labour was available and the employment of the foreigner was justified, did not amount to an admission that foreigners were given only jobs not wanted by Hungarians, thereby institutionalizing the concept of "national preference" in access to employment. Referring to paragraph 95, he asked what measures had been taken to ensure that legal remedies were available before international

forums in cases of individual complaints, particularly with a view to facilitating access to the individual complaints procedure under article 14 of the Convention.

40. Mr. ABOUL-NASR associated himself with the concern expressed about the situation of Gypsies in Hungary. Precise figures were needed on the size of the Gypsy population and on its representation in elected and official bodies. The commencement of negotiations with the Gypsy community seemed to be a case of too little, too late. He asked what practical changes had been made in the treatment of Gypsies, what their current situation was and to what extent the new legislation had corrected the ills of the past.

41. He wondered why there was no mention of Bosnians among the minorities listed in the report. Was it because there were no Bosnians in Hungary, because the Bosnians were Muslims, because of a master plan to divide Bosnia and Herzegovina between Croatia and Serbia or because Bosnians were not considered a minority?

42. He had been surprised at the statement by the representative of Hungary to the effect that Hungary had compensated Jews for property confiscated during the Second World War, there being nothing in the Convention to warrant singling out a particular group. Other groups, too, such as the Serbs, had suffered during the war, and there were those whose property had been confiscated under the communist regime. Had they also been compensated?

43. Mr. SHERIFIS, concurring with the analysis of the report by the Country Rapporteur, referred to the important changes that had taken place in Hungary. He particularly welcomed the fact that Hungary had made a declaration under article 14 of the Convention and had withdrawn its previous reservation with respect to article 22. A significant development was the process of organization of the national and ethnic minorities, referred to in paragraph 14. He asked for more specific information on the strengthening of the activity of organizations protecting the interests of numerically smaller ethnic groups.

44. Another very important development had been the adoption in 1993 of the Act on the Rights of National and Ethnic Minorities. The statement that 20 members of Parliament belonged to minorities had to be measured against the fact that the total number of members of Parliament was 386.

45. The information concerning autonomy for minorities was noteworthy but raised the very important issue of the right of self-determination. The Committee's position, which he believed to be unanimous, was that the exercise of the right of self-determination should never lead to dismemberment of a country or impair the territorial integrity or political unity of sovereign and independent States. He invited comments by the delegation on that question.

46. He requested clarification of the statement that "the minority policy of Hungary is not subordinated in any way to the minority policies of other countries with respect to the Hungarian minorities", which he took to mean that no reciprocity was required. The statement that the Republic of Hungary

was aware of the fact that the question of the realization of minority rights affected both foreign and security policy was also highly significant.

47. Credit was due to Hungary, a country with a large number of minorities, for its statement condemning racial segregation and apartheid in connection with article 3 of the Convention, and for the action taken to implement article 7 of the Convention.

48. Mr. DIACONU noted the far-reaching changes in Hungary's laws and institutions. As Hungary was a country in transition, allowance should be made for certain shortcomings and time was needed to assess the effectiveness of the new institutions. Noting the action taken by the Government to reverse the process of assimilation of minorities, he welcomed the frank admission of the adverse effects of forced assimilation, which had led to a loss of identity and to a significant decline in the number of members of minorities over the previous 60 years. He asked whether the Government was contemplating measures to ensure the recovery of lost identity, including names and languages.

49. The 1993 Act on the Rights of National and Ethnic Minorities constituted a bold new departure. Referring to the definition of a national and ethnic minority given in paragraph 26 of the report, he questioned the condition that such groups should have lived in Hungary for at least one century, which was an unduly stringent requirement compared with the length of time required in other European countries. That being said, the Act contained many provisions that went further than comparable legislation elsewhere in Europe, and the Committee would be most interested to know how it was being and would be applied in practice.

50. He also requested more statistical information on the distribution of minorities in Hungary: how many there were in each administrative area and whether they constituted the majority in any one place. It might be that they were so dispersed that the provisions of the Act were difficult to implement. In that connection, he was unclear about the functions and authority of the self-governing bodies mentioned in paragraphs 34-37 and about the difference between local and national self-government. Paragraphs 322-329 of document HRI/CORE/1/Add.11 outlined the functions, both mandatory and discretionary, of local governments. Self-governing bodies, on the other hand, appeared to have no real powers at all, beyond the organizational and management functions exercised by any NGO or political party.

51. He was concerned about the acts of violence directed against minorities, such as those referred to in paragraph 63 of the report, and wished to know what progress had been made on the amendment to article 156 of the Penal Code proposed in 1994. He also asked whether there was any legislation dealing with racial hatred, having found no reference to that matter in the report. The provisions described in paragraphs 49-51 and 57-59 did not meet the requirements of article 4 of the Convention.

52. The report said too little about education. The information contained in the relevant Fact Sheet (annex 3) predated the new legislation on minorities. It was hard to assess any progress that had been made. For example, the Fact Sheet stated that minority languages were taught as foreign languages in a

majority of schools. He wondered whether children from minority gr attend schools where their mother tongue was used, and whether mino had access to libraries or museums that housed books or exhibits re their own language and culture.

53. The report contained no statistics on the number of minority g represented on local state bodies or political parties. Nor was the information on the representation of numerically larger minorities.

54. He was concerned about the situation of Gypsies, 70 per cent o unemployed and who were the most frequent victims of attacks by skin others. He wondered whether any action had been taken on either sc

55. With regard to the possibility of minorities maintaining links ethnic kin abroad, his view was that they had every right to such li in no way prevented them from being loyal to the State. No question collective rights, such as the right to strike, was involved; they w exercising the right to be different from other groups in the countr

56. A careful reading of paragraph 362 of the core document showed Convention did not automatically form an integral part of Hungarian was concerned, however, about conflicts between international treati domestic legislation; it seemed that the Constitutional Court ruled case individually. Such a procedure could give rise to major anomal the Government should regularize the situation.

57. Mr. van BOVEN noted that the issue of minorities often had an international dimension. The seventh preambular paragraph of the Co was crucial in that respect. He understood that Hungary was coopera the High Commissioner for National Minorities of the Organization fo and Cooperation in Europe and he wondered whether there were any pla ratify the Council of Europe Framework Convention for the Protection National Minorities.

58. He commended the commemoration of the Holocaust victims, menti paragraph 48 of the periodic report, although the issues of compensa reparation should normally come under article 6 rather than article wondered whether more recent victims of racial hatred were entitled reparation as well.

59. Hungary was not fully in compliance with article 4; indeed, th provisions of article 4 (b), relating to organizations that promoted discrimination, were not even mentioned in the report.

60. In their enthusiasm for the market economy, former socialist c frequently failed to pay due regard to economic, social and cultural Yet minorities suffered most from the deprivation of such rights. F example, the report contained information on unemployment but no sta in relation to Gypsies in particular. The latter tended to be dismi readily than other workers, and three quarters of adult male Gypsies unemployed. A new generation was growing up whose employment prospe grim.

61. The report said nothing about housing or social welfare. He wondered how widely the Convention was known in Hungary. Had it been published? Did the public know that Hungary had made a declaration under article 14? Would the proceedings of the Committee be published? Did a national commission on the Convention exist?

62. With regard to article 7, he believed that more attention should be paid to the training of law enforcement officials. He was concerned at reports that excessive force had been used against refugees and asylum-seekers, that they were systematically harassed by the police and that little effort was made to arrest and prosecute skinheads who attacked them.

63. Lastly, he urged Hungary to ratify the amendment to article 8 (6) of the Convention, which had been adopted by the General Assembly.

64. Mr. GARVALOV said he had no quarrel with Hungarian legislation on minority rights, which reflected its internal requirements. Hungary's legislation on collective rights for minorities was in many ways more advanced than that of other European States. He wondered, however, whether the special rights granted to minorities were in conformity with article 1 (4).

65. In that connection, the distinction between "national" and "ethnic" minorities was unclear. Paragraph 14 of the report spoke of "numerically smaller ethnic groups". He wondered whether smaller groups were regarded as "ethnic" and larger ones as "national". The United Nations itself could not agree on a definition. As a signatory to the Council of Europe Framework Convention for the Protection of National Minorities, Hungary should take steps to define the term "national minority". Paragraph 26 purported to do so, but in fact provided merely a set of criteria, not a definition as such.

66. Mr. Náray, Mr. Szapora and Mrs. Hevesi (Hungary) withdrew.

OTHER MATTERS

67. The CHAIRMAN, noting that the Security Council had that morning issued a statement on Burundi, recalled that the Committee had been due to discuss Rwanda on the basis of a text drawn up by Mr. Valencia Rodriguez. In addition, Mr. Yutzis had suggested that the Committee might discuss Guatemala.

The meeting rose at 6 p.m.

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SUMMARY RECORD OF THE 1144th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 March 1996, at 10 a.m.

Chairman: Mr. BANTON

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GE.96-15556 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Eleventh, twelfth and thirteenth periodic reports of Hungary (CERD/C/263/Add.6) (continued)

1. At the invitation of the Chairman, the delegation of Hungary took places at the Committee table.

2. Mr. GARVALOV, continuing his statement of the previous day, asked whether the Government of Hungary was taking measures to ensure that the national minorities living in Hungary were competitive on the labour market and, in particular, whether there were provisions for helping them to acquire the necessary command of the Hungarian language. With regard to the "mother tongue" mentioned in paragraph 42 of the report, he said that there was an ongoing debate in the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE) on the concepts of "mother tongue" and "minority language"; he wondered whether Hungary was not confusing the two. He also pointed out that the official title of the Declaration adopted by the United Nations in December 1992 was "Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities", not "Declaration on Minority Rights", as in the title of the official statement by Hungary reproduced in paragraph 46 of the report.

3. He was pleased that the establishment of the Constitutional Court had been a cornerstone in the creation of the rule of law in Hungary, but noted that that was not the only condition for a democratic system.

4. He asked what the "special personal data" mentioned in paragraph 59 of the report consisted of, who gathered it and for what purpose. He preferred not to say what those words made him think of. He also failed to understand why, as indicated in paragraph 64 of the report, "a person who, in the presence of others, uses an insulting or derogatory expression with respect to the Hungarian nation, a particular nationality, people, religion or race, shall not be punished" and why "only the incitement to hatred is punishable". That distinction was not very clear, since a person could easily use insulting expressions as an incitement to hatred and all the more so to racial hatred. He requested further information on the right to vote of non-Hungarian citizens (para. 69 of the report).

5. Mr. YUTZIS said that he welcomed the information submitted by the Hungarian Government on the protection of civil and political rights during the period of transition. The thirteenth periodic report of Hungary was one that inspired optimism with regard to the protection of minorities. However, he did not understand the steps taken by the Hungarian Government pursuant to article 4 of the Convention and requested more detailed information on the reform of the Penal Code mentioned in paragraph 60 of the report. He also requested information on the implementation of the International Covenant on Economic, Social and Cultural Rights in Hungary in the case of minorities. He did not think that an automatic analogy between a market economy and democracy was justified, particularly since the distribution of wealth was rarely

equitable. In that regard, he was very concerned about the vulnerability of Gypsies to the economic recession and about the development of practices that discriminated against them, as mentioned in paragraphs 130 to 132 of document HRI/CORE/1/Add.11 of 1992. It would be useful to know whether the situation described four years previously had continued to deteriorate owing to the general economic situation, and he hoped that recent statistics on Gypsies' access to housing, work, education and health care would appear in Hungary's next periodic report.

6. Mrs. SADIC ALI asked for more information on the "legal institution of minority self-governments created by direct and indirect methods, i.e. direct or indirect elections", mentioned in paragraph 37 of the report. Since the first municipal elections of that kind had already taken place on 13 December 1994, she would like information on cooperation among the elected bodies of minorities and local authorities and on the actual organization of such elections in view of the fact that, in Hungary, minorities were often scattered throughout the country. She also wondered whether Hungary had any multiracial integrationist organizations and movements or any other means of eliminating barriers between races. Like Mr. Yutzis, she was very concerned about the situation of the Gypsies, who had been seriously affected by the economic crisis and the recession, and she asked what measures the Hungarian Government was taking to assist them in the fields of education, employment and health care in accordance with the provisions of article 2, paragraph 2, of the Convention.

7. With regard to the implementation of article 4 of the Convention, she noted that in the explanatory memorandum to his proposed amendment to the Penal Code, the President of the Republic of Hungary had acknowledged that Hungarian law failed adequately to handle incidents such as the attacks carried out by extremist political groups against national, ethnic, racial or religious groups and she wished to know how Hungary intended to fulfil its obligations under article 4. Last, she asked for information on the situation of the 3.5 million Hungarians living in countries bordering on Hungary, for example, in Slovakia.

8. Mr. NARAY (Hungary) thanked the members of the Committee for their comments and criticisms and said he welcomed the fact that a dialogue had been established between the Committee and the Hungarian delegation.

9. Replying to the questions asked by Mr. Valencia Rodriguez, he said that the marginalization of the Gypsies was not a new phenomenon. However, one could not really speak of "discrimination" against them. The Hungarian Government had been trying for decades to assist them. They even benefited from "positive discrimination" in the fields of education and employment; for example, there were special training courses to help them adapt to the labour market. Gypsies accounted for 7 per cent of the population of Hungary and although 25 per cent of them did not finish primary school, that percentage was nevertheless a considerable improvement over the situation which had existed several years previously. He agreed that there was a very high level of unemployment among the Gypsies but noted that the labour market was in general very difficult for persons with little education, not only for Gypsies. The Hungarian Government was setting up special programmes for them, but, in view of the current economic situation, it could not provide them with higher levels of subsidies at the expense of other population groups.

10. He explained that all nationalities were represented in the Office for National and Ethnic Minorities, the head of which was a member of the Hungarian Gypsy community, and that it played an important role in ensuring coordination between minorities and the Hungarian Government.

11. Article 1 of the 1993 Act on the Rights of National and Ethnic Minorities set forth the applicable criteria for the definition of minorities. There was, moreover, no restriction on the use of Gypsy names in Romany, but the family name must be written in Latin characters so that it could be understood by the Hungarian population.

12. He took note of the comments on the implementation of article 4 of the Convention made by several members of the Committee and said that Hungarian legislation in that area had not been finalized. The Parliament was currently considering a bill which would amend the Penal Code and clarify the point in question. However, he emphasized that all the acts covered by article 4 of the Convention were in general punishable as crimes and that Hungary was fully carrying out its obligations in that regard. In reply to the criticisms of Committee members concerning the judgements handed down by the Constitutional Court, he said that those judgements must be interpreted in the historical context of Hungary, where freedom of expression was still a new concept.

13. Foreigners living in Hungary could bring before the courts any case of racial discrimination against them. They also had the right to participate in municipal elections. He assured the members of the Committee that Hungary's next periodic report would include more detailed information on the situation of foreigners, a question on which the Government of Hungary did not as yet have much experience.

14. With regard to the dissemination of information on the Convention, he said that the text of the Convention was published in Hungarian and distributed free of charge in book stores and libraries. The public was aware of the Convention and it was mentioned in the newspapers.

15. It was not the case, as Mr. Rechetov had said, that the minority problem in Hungary dated from the dissolution of the Austro-Hungarian Empire. Hungary had been accepting refugees throughout its existence and the end of the Empire had only contributed to the problem. Neither was it the case that minorities were not all treated equally. Except for the Gypsies, who benefited from preferential treatment, there was absolute equality both in law and in practice.

16. One of the criteria for the definition of minorities under article 1 of the Act on minorities was that they must have been living in Hungary for at least a century. He was not aware of any of international standards in that regard, but thought that Hungarian law was quite liberal. With regard to the question whether minorities had the right to self-determination, he noted that, according to the Charter of the United Nations and the relevant General Assembly resolutions, that right applied to peoples, not to minorities.

17. Referring to the existence of provisions on minorities in the bilateral agreements Hungary concluded with neighbouring countries, he gave the example of the agreement which Hungary had signed with Slovakia in 1995: under

article 3 of that agreement, the Contracting Parties stated that neither had any territorial claim on the other and article 15 defined the specific rights of minorities. The Hungarian Government considered that the ties between minorities and the mother country were extremely important to the maintenance of good relations with neighbouring countries. Article 269 of the Penal Code, under which incitement to hatred of the Hungarian nation was a crime, was not aimed particularly at minorities. Anyone who committed such a crime would be prosecuted.

18. The opportunity for foreigners to work in Hungary was regulated by Ministry of Labour Decree No. 7 of 1991. With regard to the measures taken under article 14 of the Convention, he said that the Hungarian population was well aware of the existence of the Convention and the other international human rights instruments. Several cases had been brought before the Human Rights Committee, but none had been brought before the Committee on the Elimination of Racial Discrimination in accordance with the Convention.

19. In reply to the comments made by Mr. Aboul-Nasr, he agreed that the statistics on the Gypsies were vague. There was no obligation for members of minorities to declare themselves as such. The Hungarian Government recognized that it had not done enough for the Gypsies, partly because of the country's financial difficulties. However, the Government would continue to implement special measures on their behalf and their welfare would not suffer from the anticipated budget cuts in social benefits.

20. The Bosnians had not been mentioned as a minority because they were refugees and were treated as such rather than as a minority. The Muslim population was a very small one and did not suffer from any discrimination, either de jure or de facto. The compensation measures taken by the Hungarian Government had been made available without any discrimination to all victims of illegal Government actions. He had referred specifically to the Jews because the Hungarian Parliament was still discussing the exact procedures for the implementation of those measures in the case of the Jews. The Hungarian Government had fully complied with the compensation procedures established by international conventions.

21. Replying to Mr. Sherifis, he said that very small minorities were covered by the law on minorities. They sometimes encountered problems, but the Government helped them. Furthermore, the 20-some members of Parliament who belonged to minority groups actually represented political parties rather than the minorities themselves. However, a bill was under consideration that would make it possible for minorities to be specifically represented. The Hungarian Government would provide details on the matter in its next report. The statement in the report (para. 45) that "the minority policy of Hungary is not subordinated in any way to the minority policies of other countries with respect to the Hungarian minorities" meant that there was no reciprocity: the policies of the Hungarian Government did not depend on other countries' treatment of the Hungarian minorities. The Government intended to conclude bilateral agreements with all countries which had Hungarian minorities.

22. In reply to the questions asked by Mr. Diaconu, he referred first to the problem of the identity of minorities. Mr. Diaconu had said that, in the 1930s, Hungary had had hundreds of nationalities which had lost their

identity as a result of Hungarian policies. Hungary by no means claimed that it had always acted with perfect probity and it had engaged in self-criticism; it would, moreover, like all countries to be equally critical of themselves. Nevertheless, if the estimates on the current population of the various minorities as provided by minority associations in Hungary, were compared to United Nations statistics on the same minorities for the 1930s, it was clear that there had been no great reduction in those numbers. The question was whether those nationalities were still able to recover their identities. In any case, the new law provided for that possibility: members of minorities could, even if they did not speak the language of that minority, declare themselves as such and participate in local elections or have their own schools. It was unfair to say that the local self-governing bodies did not have administrative powers. Those bodies did have powers, including the right of veto, in all matters which concerned minorities. Articles 26, 27 and 29 of the Act specifically defined their powers. From a practical point of view, he could only say that the system worked, even if it was not always easy for it to do so for reasons such as the fact that minorities were widely scattered.

23. Mr. Diaconu had also referred to cases of violence against Gypsies and foreigners. Such incidents could take place, but the Hungarian system was based on the law and provided for penalties when the law was broken. It was probably true that there was a high proportion of Gypsies in pre-trial detention. However, those arrests were made legally and appeal procedures existed. He noted that there was practically no immigration of Hungarian Gypsies, whereas there was an increase in the number of Gypsies entering from other countries: that was a good indication of the situation of Gypsies in Hungary.

24. With regard to the educational establishments for the various nationalities, he said that there had been 643 nursery schools, 645 primary schools and 9 secondary schools in 1991-1992. It was difficult to provide instruction in the languages of minorities in all areas, but the Government allocated special resources for that purpose and the situation was improving. Links between minorities and their countries of origin could be very useful in obtaining teaching materials. While no minority had established its own political party, the law did not rule out that possibility.

25. Replying to the questions asked by Mr. van Boven, he said that his country maintained close ties with the OSCE High Commissioner for National Minorities and counted on the Commissioner's assistance in dealing with minority problems. With regard to the social and cultural rights of minorities, he said that it was unarguable that some minorities were suffering from the country's economic problems. But it seemed that a new period of growth was about to begin and the situation would improve. The Hungarian Government did not want to repeat its past mistake of running a system of social protection which was much more expensive than it could afford.

26. Referring to the training of law enforcement officials, he said that the study of the Convention was part of the police training programme. As far as the attitude of the police towards Gypsies was concerned, he noted that the new parliamentary committee for minority affairs would investigate the incidents of that kind that had taken place.

27. His country had always been in favour of the amendment of article 8 of the Convention.

28. As Mr. Garvalov had noted, the naming of certain population categories was problematic. Hungary referred to national minorities and to ethnic minorities not to make a distinction between those two types of minorities, which had the same rights, but, rather, to avoid excluding Gypsies, who, unlike other minorities, did not have a "mother country". Moreover, the persons concerned had no grounds for complaint, since the text of the bill had been studied with the organizations which represented minorities. The last paragraph of the Act on the Rights of National and Ethnic Minorities established the criteria for determining whether an ethnic group was entitled to ethnic minority status. The United Nations had not yet prepared a definition of an ethnic minority and Hungary was thus helping it to do so.

29. In 1995, his country had ratified the Council of Europe's Framework Convention for the Protection of National Minorities. Hungary was also a party to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. However, while it was in favour of the drafting of a binding instrument, it did not go so far as to support the idea of a convention; the drafting of a convention was another very complex matter.

30. The use of minority languages was not a problem. Everyone was free to declare any language as his mother tongue and the law defined the circumstances in which the various mother tongues could be used, for example, in the courts. With regard to the right of foreigners to vote, he explained that they could take part in local elections.

31. The Committee should realize that, for the most part, Gypsies spoke Hungarian better than their own language, although that did not prevent them from improving their knowledge of Romany in primary schools. In reply to the concerns expressed by Mr. Yutzis, he said that there were high unemployment rates among members of that minority because society was no longer egalitarian, as had formerly been the case; it was governed by the market, which placed unskilled persons at a disadvantage. It was the market that discriminated, not the Government. It would take time for Gypsy families to understand the importance of giving their children the necessary skills required by the market. Unemployed Gypsies nevertheless received the allowances to which an unemployed person was entitled.

32. In reply to Mrs. Sadiq Ali's request for information on the organization of elections to the minority self-governing bodies, he explained that they were indirect at the national level and could be direct or indirect at the local level. They were indirect at that level if a certain number of elected members of the local government declared themselves members of an ethnic group. They could then set up, within that government, a self-governing body for that minority with certain specific rights.

33. The problem of the approximately 3.5 million Hungarians living in neighbouring countries was a very important one, since it affected almost every Hungarian family; it was for that reason that Hungary encouraged all types of contact between Hungarians living abroad and those residing in

Hungary and was concluding bilateral agreements with its neighbours. Such an agreement was currently being negotiated with Romania and there was every reason to hope that the problem which had been posed in Slovakia by the law under which Slovak was the national language of that country would be resolved with the signing of the agreement between Hungary and Slovakia. Hungary, like its neighbours, was seeking membership in the European Union; when all of those countries had achieved that goal, the problem of minorities from one country residing in another would be well on the way to a solution.

34. Mr. RECHETOV said he was pleased to learn that an agreement was being negotiated with Slovakia. He was intrigued by the fact that the Convention was a subject of public discussion in Hungary and asked for more information on what was being said about it by the media and the public.

35. Mr. Naray had referred to incitement to hatred of the Hungarian nation, but the meaning of those words must be illustrated by examples; Hungary was not a minority group, but a State, and he did not see why, as a State, it should be immune from criticism.

36. He noted that Mr. Naray had not been able to give precise answers, with supporting statistics, to the questions asked of him. In future, Hungary, which had the means to do so, should include specialists on the matters under consideration as members of its delegation.

37. Mr. DIACONU said that he was not satisfied with Mr. Naray's answer to the question on the implementation of article 4 of the Convention. A country which acceded to the Convention must declare illegal, and punish, organizations which disseminated racist propaganda. He also asked for an explanation of the right of veto of the minority self-governing bodies to which Mr. Naray had referred.

38. After summarizing the conditions in which the minorities had been formed and the former Hungarian policy of assimilation, he requested that, in its next periodic report, Hungary should provide more detailed statistics on the various ethnic minorities and explain the fact that, whereas, according to Hungarian statistics, there had been 130,000 Romanians in 1930, there were only 25,000 at present.

39. Mr. van BOVEN reminded the Committee that it was not a round table, but the body responsible for monitoring the implementation of the Convention, with all the resulting policy implications. He joined Mr. Rechetov in requesting that the next Hungarian delegation should include representatives from the departments concerned and expressed the hope that Hungary would take account of the Committee's conclusions and describe the action taken on them in its next report.

40. Mr. GARVALOV said that General Assembly resolution 1514 (XV) and resolution 1541 (XV) and its Principle VI referred specifically to the right to self-determination of countries and peoples under colonial domination in their struggle for independence, not to the right to self-determination of peoples, as recognized in article 1 of the two Covenants and in the Charter of the United Nations.

41. Speaking of the Hungarian definition of a national and ethnic minority, he said that paragraph 26 of the report should have included national origin, religion and some linguistic elements of minority cultures among the criteria used.

42. The CHAIRMAN, referring to the concern expressed by some members about the many references to self-determination, noted that, since the Committee had been planning to draft an observation or general recommendation on the subject and that would probably be done quite soon, it would be better to postpone the discussion of the question until that time.

43. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the Committee would like to receive more detailed information in the next periodic report of Hungary on: the scope of the 1993 Act on the Rights of National and Ethnic Minorities; government activities to implement articles 4 (a) and (b) and General Recommendation XV of the Committee and to amend the Penal Code accordingly; the definition of minorities and the question of the length of time required for a group to be considered a minority, the requirement of a century perhaps being revised; more detailed statistics on the attitudes of society; the strengthening of preferential measures in favour of the Gypsy population; the action taken to fill the remaining gaps in the Hungarian legal system, despite its radical reform; and a more detailed discussion of the implementation of the sociological and economic provisions of international law.

44. He welcomed the dissemination of the Convention and hoped that the Committee's conclusions would be similarly publicized. He was also pleased by the information on the election to, and the functions and responsibilities of, the minority self-governing bodies, which had a direct bearing on the implementation of the Convention.

45. Mr. NARAY (Hungary), replying to Mr. Diaconu, explained that, while the autonomous administrative bodies' right of veto was not expressly set forth in the Act on the Rights of National and Ethnic Minorities, article 29, paragraph 1, of the latter stated that, if a local minority self-governing body rejected a local government decree on a matter concerning the minority in question, such as the local press, traditions or the use of their language, that decree could not be adopted, and that was, in popular terms, the equivalent of a veto.

46. The delegation of Hungary withdrew.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 9)

47. Mr. O'FLAHERTY (Secretary of the Committee) informed the Committee that the Secretariat had, that morning, received the periodic report of Panama, which was written in Spanish and must therefore be translated into the other working languages.

48. The CHAIRMAN therefore suggested that the consideration of the situation of that country should be postponed until the Committee's next session.

49. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 5) (continued)

50. The CHAIRMAN said that, at an earlier meeting, Mr. de Gouttes had been asked to coordinate information on the countries whose situations the Committee had decided to consider under agenda item 5.

51. Mr. de Gouttes might therefore request the Secretariat to provide the relevant information on those countries and to communicate it to the Committee at a public rather than at a private meeting, as requested by several members at the 1,130th meeting.

52. Mr. de GOUTTES said that he was willing to work in cooperation with the High Commissioner for Human Rights, with whom he was, moreover, scheduled to meet on the following Monday, and to transmit to the Committee the information which he had received. However, he did not wish to serve as an intermediary and thus risk impeding direct communication between the Committee and the Secretariat on agenda item 5. It his view, it was important that the members of the Committee should receive the Secretariat's information on the countries to which the urgent procedures applied directly from the Secretariat, in a public meeting, if at all possible.

53. The Committee should therefore continue, in the spirit of openness which it had displayed in the past, to make some of its members responsible for serving as intermediaries not only with the United Nations bodies and agencies dealing with human rights, but also with other bodies, such as the Council of Europe and the European Parliament.

54. Mr. van BOVEN said that the Committee had already, on several occasions, entrusted some of its members with the task of contacting other committees or bodies, but those contacts had tended to weaken with time. The Committee should therefore give careful consideration to the matter. The role of the person responsible for coordinating information under agenda item 5 should be specified more clearly.

55. Mr. RECHETOV said that he shared the views expressed by Mr. van Boven. He hoped that the coordinator of agenda item 5 would keep the Committee regularly informed of his activities and report on the content of his interview with the High Commissioner for Human Rights.

56. Mr. ABOUL-NASR said that any task entrusted to a member of the Committee should be a specific one and agreed with Mr. de Gouttes that the coordinator of agenda item 5 should not impede direct communication between the Committee and the Secretariat.

57. The CHAIRMAN suggested that the members of the Committee should postpone the discussion of the question of the coordinator of agenda item 5 and invited them to consider the question of Mr. Yutzis' future mission to Guatemala, a country whose case the Commission had decided to consider under agenda item 5.

58. Mr. O'FLAHERTY (Secretary of the Committee) said that Mr. Yutzis had been unable to visit Guatemala in May 1995 as he had planned. The Guatemalan Government had then suggested that his mission should take place in

October 1995, but had informed him at the last minute that the work of preparing for the upcoming elections left the Government no time to meet with him. The Committee and the Government would therefore have to agree on another date.

59. Mr. YUTZIS said that it was the representatives of the Guatemalan Government who, during one session of the Committee, had invited it to send one of its members on a mission to Guatemala.

60. The Committee must therefore decide, after determining to what extent Guatemala was implementing the provisions of the Convention, whether it wished to contact the Guatemalan Government to agree on a new date for the mission.

61. Mr. de GOUTTES said that the mission would be a very useful one and suggested that the Committee should send a letter to the Guatemalan Government.

62. Mr. van BOVEN, supported by Mr. ABOUL-NASR, said that he shared that view, but thought that the member of the Committee sent to Guatemala must have a very specific mandate and the Committee's full support.

63. The CHAIRMAN said that it would be desirable for Mr. Yutzis to submit his suggestions on the nature of that mandate to the Committee at a later date.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1145th MEETING

Held at the Palais des Nations, Geneva,
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Chairman: Mr. BANTON

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth periodic report of Spain

This record is subject to correction.

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GE.96-15534 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Thirteenth periodic report of Spain (CERD/C/263/Add.5; HRI/CORE/1/Add

1. At the invitation of the Chairman, Mrs. Vevia Romero, Mr. Aparicio Gómez-Lobo, Mr. Porras Muñoz, Mr. González de Linares Pa Mrs. Martínez Cano-Cortes (Spain) took places at the Committee table.

2. Mr. VEVIA ROMERO (Spain), introducing her country's thirteenth p report (CERD/C/263/Add.5), said that, since preparing the report, Spa felt obliged, like most democratic countries, to take further decisiv against racial discrimination. For example, the new Criminal Code de more offences in that regard, and Organization Act No. 4/95, amending Criminal Code, dealt with the crime of genocide and the defence or dissemination of ideologies upholding racism or ethnic exclusion; it recognized racism and anti-Semitism as aggravating circumstances in o against persons and property. The new Code, which would enter into f on 26 May 1996, also recognized a number of offences against the exer of fundamental rights and public freedoms, involving the provocation discrimination, hatred or violence on racist grounds, and it containe provisions relating to illegal foreign labour, clandestine immigratio discrimination on ethnic or racial grounds. Perhaps the main feature amended Asylum Act was the facility for granting residence to applica had become displaced persons as a result of having had requests for a denied. In addition, the implementing regulations for Organization A No. 7/85, on the rights and freedoms of aliens in Spain, had been sim and a number of measures, including the creation of the interministe commission on aliens, had been taken in response to the growth in the number of foreign residents in Spain, given the State's obligations u international instruments and the desire to improve the legal securit foreign workers through greater integration.

3. Other advances included a new system for visas, entry controls residence permits, and the creation of the status of permanent reside uniform documentation and new approval procedures. During its presid the Council of Ministers of the European Union in the second half of Spain had proposed a number of measures to combat racism and xenophob including a draft proposal for joint action based on harmonization of relevant national laws; although the proposal had been opposed by the United Kingdom, it was hoped that that obstacle could be overcome dur Italy's presidency. Furthermore, the new Parliament (Cortes) was exp to approve a proposal that Spain should make a declaration under arti the Convention.

4. In view of the many recent changes referred to, the authorities to draw up and submit the fourteenth periodic report very shortly, an welcome any suggestions by the Committee in that regard. The Spanish Government and people remained determined to combat racism and racial discrimination by all available means and in all fields.

5. The CHAIRMAN thanked the Spanish delegation for its presence, the introduction of the report and the additional oral information. In view of the short interval between the current and previous periodic reports, the Committee had decided to depart from its usual practice by inviting the same member as before to act as Country Rapporteur.

6. Mr. FERRERO COSTA (Country Rapporteur) noted that the thirteenth report was more comprehensive than the previous one, and that it provided information on such matters as immigration, asylum and foreign workers. However, it lacked details about the country's ethnic composition and he drew attention to the Committee's guidelines and earlier criticisms in that regard.

7. He noted the information provided in sections 6, 7 and 69 of the report on the 17 Autonomous Communities which were in the process of having certain powers transferred to them by the State. The Committee should be given details of the relevant enabling legislation, and of the powers to be transferred and the spheres concerned. Information should also be provided on the main issues involved in the conflicts of responsibility between the Government and the Autonomous Communities, which were mentioned in paragraphs 18-20. One matter that could be usefully elucidated was the perceived balance between the limits to local autonomy imposed by the State and Catalonia's aspirations regarding the progressive recovery of more self-governing powers. Moreover, the next periodic report should include information on measures taken to promote local autonomy, and on the extent to which those regions which already enjoyed a substantial degree of autonomy were fulfilling their obligations under the Convention. With reference to the Basque Country, Catalonia, Andalusia and Madrid, which were of particular interest because of their size, the fourteenth periodic report could usefully provide population figures, including an ethnic breakdown, together with details of the main policy-making and executive bodies, especially those concerned with racial and ethnic issues; other information, in response to the Committee's observations, could concern questions of racial discrimination, including any lawsuits, and specific legislation on such matters as education in minority languages.

8. With regard to article 2 of the Convention, he asked what progress, if any, the Government had made in defining or implementing a general policy for the prevention of racial discrimination. As far as the Gypsy population was concerned, he would welcome an estimate of its current numerical size, and with reference to paragraph 53 he asked what practical criteria were used to measure the progress of campaigns sponsored by the Ministry of Social Affairs. In that connection, the reference, in paragraph 62, to the premature school drop-out rates and levels of truancy among Gypsy pupils seemed to be contradicted by paragraph 57 (a), which referred to improvements in the levels of absenteeism and failure.

9. He asked which Autonomous Communities were involved in the Gypsy Development Programme and whether there were any plans for its expansion. Doubts about the success of the programme seemed to be corroborated by evidence that there was de facto discrimination against Gypsies, particularly in education, housing and employment, which prompted him to reiterate the question, not fully answered in paragraphs 21 to 25 of the thirteenth report, as to whether the central Government or the Autonomous Communities had taken

any additional measures, since 1994, to improve the situation of the Gypsy population. With reference to paragraph 76 of the report, he asked what steps had been taken to remove the pejorative word gitanada from the Royal Academy dictionary and to ensure that it was no longer used.

10. While commending the Rehousing Plan described in paragraphs 63-70 of the report, he pointed out that the measures taken under the plan might conduce - albeit unintentionally - to racial segregation within the meaning of article 3 of the Convention. He invited comments on that question and on the scope of the plan, as well as on reports that walls were being built around the camps set up, with the result that they resembled prison camps.

11. Turning to the information provided in paragraphs 77-89 about the situation of the Muslim population in Ceuta and Melilla, he requested a statistical breakdown, by nationality, of the Muslim population of Melilla. In connection with paragraph 83, he inquired into the nature of the remedial measures adopted by the Government to improve the status of Muslims with very low incomes in Melilla. He asked whether the positive discrimination measures described in paragraph 84 applied to foreign Muslims resident in Melilla as well as Muslims of Spanish nationality. The questions to be asked in connection with paragraph 87, concerned what was meant by the statement that the status of the foreign Muslim residents of Ceuta and Melilla was not "formally comparable to the legal status of nationals", whether the implied obstacles to their assimilation included the existence of racial discrimination and, if so, how that squared with the statement in paragraph 88 that there was no de facto discrimination. It had been reported that some 300 migrants of African origin had had to remain in Ceuta for over two years in subhuman conditions before being allowed to move to continental Spain at the end of 1995. In a similar case, some 50 African migrants were currently in "no man's land" in Ceuta - denied both entry into Spain and the right to return to Morocco. He hoped that Spain's next periodic report would give a full account of that case.

12. In connection with paragraphs 90-124 of the report, he welcomed the detailed information on the situation of foreigners and immigrants in Spain and on current and future policy in that regard. Some questions arose, however, about the constitutional and statutory position, in particular the apparently discriminatory provisions of articles 13, 14 and 19 of the Constitution, from which it emerged that equality before the law was an unqualified right only for Spaniards; in the case of foreigners it was subject to the conditions laid down by treaties and the law. Referring to the information provided in paragraphs 90-94 of the report, he reiterated an earlier request for clarification of articles 6 and 9 of Organization Act No. 7/1985, which provided for the possibility of restrictions on aliens' right of residence, freedom of movement and right to education. The provisions of article 6 of the Act, read in conjunction with article 19 of the Constitution, could lead to a situation in which foreigners were compelled to reside in a particular place. Similarly, freedom to teach under article 9 of the Act was made subject to the principle of reciprocity with the country of origin. He pointed out that the right to education and freedom of teaching was a human right per se and not subject to a similar right recognized by other States. Similar comments might be made in respect of article 18 of the new law on asylum. Given their apparently discriminatory nature, he asked

whether any consideration had been given to revising the provisions of articles 6 and 9 of Act No. 7/1985. The amendments to the implementing regulations for the Act might throw more light on those points.

13. He requested the full text of the new law on asylum (Act No. 9/1994), and invited comments on certain criticisms that had been voiced about the restrictions it had introduced. Why were so few applications for asylum granted - fewer than 5 per cent of all applications in 1993 - and could up-to-date information be provided on requests granted or denied in 1994 and 1995? Was it true that the new law restricted the granting of asylum to foreigners? Could asylum-seekers be detained, and for what length of time, while their application was pending? Did they have access to legal assistance and medical care? What was the nationality or country of origin of the persons who had been granted asylum, and were all applications treated even-handedly, regardless of the country of origin? Was it true that the interministerial commission on asylum-seekers and refugees had a policy of automatically informing the countries of origin in the case of unaccompanied minors? What was the normal procedure for applications, to whom were they submitted, how long did the decisions take, where were the asylum-seekers placed, what assistance did they receive and what was the fate of those denied asylum? He welcomed the statement in paragraph 124 of the report that some of the latter might be authorized to remain in Spain in certain circumstances, but asked whether that was applied in practice, and how many foreigners had benefited from that derogation to date.

14. Referring to the rising incidence of acts of discrimination, xenophobia, ill-treatment and physical violence against foreigners, and also to reports of ill-treatment and indifference by the police, he reiterated the concern expressed by the Committee, when the previous report had been considered, at the increasing manifestations of racism and xenophobia against foreigners and its request for detailed information on actual cases of incidents of a racist or xenophobic nature and measures taken to ensure that such manifestations were not permitted. He further reiterated the Committee's concern that Spanish law enforcement officials had in many instances failed to provide effective protection to potential victims.

15. Recalling the provisions of article 2.1 of the Convention, he asked what additional measures the Government had taken since 1994 or intended to take. A particular case, directly related to the implementation of article 4 of the Convention, concerned a group of Dutch tourists who had been denied access to a camp-site solely because the group included black persons who happened to be of Netherlands Antilles origin. The case had been reported to the police and had subsequently been dismissed by a court on the grounds that the alleged facts did not constitute a criminal offence and were therefore not punishable, a ruling later confirmed by the Ministry of Foreign Affairs. That prompted him to ask whether such acts of racial discrimination and xenophobia were punishable under current legislation.

16. The Committee was particularly concerned about the continuing existence of organizations and political parties promoting racist ideas. The existence and activities of such organizations were widely reported and had been acknowledged in paragraphs 132 and 133 of the thirteenth periodic report. While Spanish legislation provided for the punishment of unlawful acts

committed by such organizations or parties, in accordance with the requirements of article 4 (a) of the Convention, the Government had previously informed the Committee that there was no provision for the banning of such organizations pursuant to article 4 (b). He asked whether the new legislation made it possible for organizations and political parties which disseminated racist ideas and incited racial discrimination to be prohibited and dissolved.

17. He reiterated the Committee's request that detailed information be provided in the next periodic report on the implementation of the provisions of article 5 of the Convention. In the meantime, the delegation should comment on the implementation of article 5 (e) (i) on employment and 5 (e) (v) on education and training. Given the current high rate of unemployment in Spain - over 20 per cent - he requested details of the comparative situation of Spanish nationals and foreign residents. The new Criminal Code contained important provisions outlawing discrimination in employment, but he wished to know more about their practical implementation over the previous two years and any further measures planned. On the subject of education, the use of national languages, as provided for in the Constitution, was of particular interest, but more information was needed on the measures taken both by the central Government and by the Autonomous Communities in that regard. He welcomed the comprehensive information provided on the implementation of articles 6 and 7 of the Convention.

18. With reference to articles 14 and 22 of the Convention, he welcomed Spain's willingness to make a declaration under article 14 and hoped that the Government would reconsider its reservation regarding article 22. Lastly, he urged Spain to ratify the amendment to article 8, concerning the financing of the Committee.

19. Mr. VALENCIA RODRIGUEZ said that the Government of Spain should bear a few points in mind when preparing its next report. The information concerning the high number of asylum-seekers in 1993 prompted the suspicion that some would-be immigrants were abusing the right of asylum. At the same time, it was essential that the equality of treatment guaranteed to the country's more than 350,000 Gypsies should become a reality. He commended the Gypsy Development Programme and hoped that the projects organized under it would promote the economic, social and cultural rights of Gypsies. He recognized the difficulties encountered in rehousing the Gypsy population, but urged the Government to persist in its campaign to eliminate the shanty-town phenomenon.

20. He noted that, according to paragraph 93 of the report, it had been declared unconstitutional to dissolve associations promoted by foreigners. That ruling could not, however, affect the application of provisions prohibiting racist organizations. In that connection, he stressed that legislation was needed to curb the activities of neo-Nazi groups, given the increase in racism noted in paragraphs 131-134. Such groups should not enjoy the protection of the law. He hoped to see details, in the next periodic report, of Parliament's decision on the bill to reform the Criminal Code, which would introduce an offence of racism and xenophobia. The reform would meet Spain's commitment under article 4 of the Convention. Article 173 of the Criminal Code, relating to penalties for associations which promoted racial discrimination, should also be reviewed.

21. He welcomed the report's description of the training given to the law enforcement agencies, but considered that a knowledge of the Convention should be added to the curriculum. Lastly, he noted with concern the lack of precise information about possible instances of discrimination in privately run, as opposed to public, day nurseries, and he wondered what measures could be adopted in that regard.

22. Mr. de GOUTTES said that future Spanish reports should follow the Committee's guidelines in respect of presentation. However, the current report contained much useful information, particularly concerning the relationship between the State and the Autonomous Communities.

23. He regretted that some of the demographic data were out of date. For example, the statistics on literacy levels dated back to 1991 and those on asylum-seekers and refugees to 1993. In that connection he noted that, according to paragraph 99, Spain had a Bosnian population; he wondered how large it was and where it was located. It was regrettable that there was no ethnic breakdown of the unemployment figures. Nor was there proper census information on Gypsies: the figures given by various official bodies and NGOs diverged widely. He wondered whether the "fact of belonging to the Gypsy ethnic group is a piece of information protected by the Constitution" (para. 34) was really such a compelling reason for not publishing such information.

24. He asked what action had been taken as a result of the establishment of the Spanish Committee for the European Youth Campaign against racism, xenophobia, anti-Semitism and intolerance, mentioned in paragraph 54. The information in paragraph 130, concerning the extremely low number of xenophobic or racist acts recorded between 1993 and 1994, was inconsistent with the admission in paragraphs 131-134 that there had been an increase in racist violence in recent years. The delegation should comment on that discrepancy. In paragraph 128, it was stated that any racist attitudes among members of the Civil Guard were brought to the attention of the judicial authority, but that most of the complaints known to have been made had been dismissed. That raised the question whether racist acts had not occurred or had simply not been followed up, and whether the complaints that had been dismissed had been investigated with due diligence. In connection with the reference, in section 34, to six allegations of a racist nature investigated in 1993, he asked what the outcome of those investigations had been.

25. Lastly, he welcomed the information that Spain was prepared to make a declaration under article 14, which would broaden the range of rights available to individuals in that country. He hoped that the report and the Committee's conclusions would be publicized in Spain.

26. Mr. LECHUGA HEVIA commended Spain's prompt response to the Committee's concerns. Referring to paragraph 25 of the report, he requested clarification of the statement that article 9 of the Constitution recognized that there were inequalities in practice that might lead to de facto discrimination against specific groups of citizens. He wondered whether any aspect of the article was at variance with the Convention. He also asked whether the Gypsy Development Programme mentioned in paragraph 27 had been widely publicized. With reference to paragraphs 68-70, he asked whether the location of Gypsy

housing was subject to any restrictions, whether Gypsies were sometimes refused accommodation by private landlords and what machinery existed to deal with such problems.

27. He noted that Spain followed the recommendations of the European Committee for the Prevention of Torture and considered the practice of degrading, discriminatory and humiliating treatment of persons in the custody of police officers to be a very serious disciplinary fault. He accepted that torture was no longer a common practice, but the State party was unable to say that it had been completely eliminated. He asked what action was envisaged to tackle the problem.

28. Mr. DIACONU found the report interesting but too uneven, with resulting discrepancies. For example, the existence of racist attitudes within the Civil Guard was denied in section 25, but confirmed in section 47.

29. He was impressed by the description of the devolution process in Spain which had a far larger number of autonomous communities than any other European country. Spain was also to be commended for its Gypsy Development Programme. It was encouraging that legislation existed on every aspect of article 4 of the Convention. He was concerned, however, at the number of racist organizations mentioned in paragraphs 133 and 134 of the report. He understood that it was legally possible to annul the registration of organizations and that, under article 22 of the Constitution, associations that pursued ends constituting an offence could be dissolved by virtue of a court order. He wished to know whether that procedure had ever been followed and with what results. He also wondered what measures could be taken against racist organizations that were not registered and had gone underground.

30. It had been alleged that there were no schools for Castilian-speakers in Catalonia and the Basque Country. If so, measures should be taken to establish such schools. The human rights of the national majority had to be respected in the same way as those of minorities. Otherwise Castilian-speakers would not settle in certain parts of the country, with the result that a form of ethnic segregation would take place. The Autonomous Communities should be compelled to provide schooling for Castilian-speakers or should amend their own legislation to that effect.

31. He found surprising the fact that the Constitution did not permit census data to be collected on Gypsies. Such data were not confidential in Romania or Bulgaria and he could see no reason why they should be in Spain.

32. Mr. YUTZIS said that, although Spain had not followed the Committee's general guidelines in the presentation of its report, comprehensive and detailed replies to the Committee's questions had been provided. It was gratifying to learn that Spain was close to making a declaration under article 14 of the Convention.

33. With regard to paragraph 76 of the report, there was little doubt that the connotations of the word gitanada warranted its deletion from the Royal Academy dictionary. However, it would be more difficult to prevent the everyday colloquial use of the pejorative term sudaca, in reference to Latin or South Americans living in Spain.

34. Paragraph 13 of the report gave statistics on the percentage of the population that was illiterate or lacked a formal education. He asked whether illiteracy and low levels of education were most pronounced in areas with a large Gypsy population, such as Andalusia in particular. A more detailed breakdown of the figures given in the report - to show the number and percentage of Gypsies who were illiterate or lacked a formal education - would be most useful.

35. With regard to the housing situation, the report lacked sufficient data on the access of underprivileged groups, including the Gypsy minority, to standardized public housing. Statistical information would therefore be welcomed on that subject and on others, such as access to employment and health services, to enable the Committee to assess the state of implementation of article 5 of the Convention.

36. Paragraph 120 on family reunion raised the question of the extent to which the final decision to turn down requests for family reunion lay with consulates and embassies and of the balance of authority between the Ministry of Justice and the Interior and the consulates in such cases.

37. With regard to section 40 of the report, although training in human rights and race relations was given to the National Police and the Civil Guard, there appeared to be no provision for the type of training - in the psychosocial and cultural aspects of such issues - which could help law enforcement agencies genuinely to understand the thoughts and feelings of foreigners, refugees, or members of ethnic minorities. He asked whether there was any machinery for monitoring or assessing training? It would also be of interest to the Committee to know how many members of ethnic minorities, particularly of Gypsy origin, had been recruited into the police or the Civil Guard.

38. Mr. GARVALOV commended the report for its comprehensive replies to the Committee's questions. However, clarification was needed of the reference in paragraphs 10 and 12 to Bulgarian nationals who had applied for asylum in Spain in 1993 and 1994. From 1989, Bulgarian nationals had had no valid reason to seek political asylum in other countries. Paragraph 10 also erroneously gave the impression that Bulgaria was one of the new republics of the former Soviet Union.

39. The CHAIRMAN, speaking as a member of the Committee, said with reference to the comments made by Mr. Yutzis, that experiments in bringing together members of the police and judiciary with representatives of minority groups on an informal basis to promote understanding, had proved fruitful for both sides.

40. Mr. van BOVEN said that the format used for the thirteenth periodic report gave the impression that it was an additional report providing supplementary information. It was to be hoped that future reports would follow the Committee's general guidelines.

41. Spain's moves towards accepting article 14 of the Convention and withdrawing reservations entered with regard to article 22 were to be applauded. He asked whether Spain was also prepared to ratify the amendment to article 8 (6) concerning the financing of the Committee.

42. Further information was needed on the case of the tourists from the Netherlands and the Netherlands Antilles who had been refused access to a camping site in Spain - a blatant violation of article 5 of the Convention. Their efforts to seek redress in Spain had been unsuccessful because the country's criminal legislation did not adequately cover incidents involving non-Spanish nationals. He wondered whether such acts of racial discrimination could be carried out with impunity.

The meeting rose at 5.55 p.m.